



# ENVIRONMENTAL ASSESSMENT BOARD

VOLUME: 258

DATE: Thursday, November 8, 1990

BEFORE:

A. KOVEN Chairman

E. MARTEL Member

FOR HEARING UPDATES CALL (TOLL-FREE): 1-800-387-8810

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HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL  
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR  
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental  
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental  
Assessment for Timber Management on Crown  
Lands in Ontario;

- and -

IN THE MATTER OF a Notice by the  
Honourable Jim Bradley, Minister of the  
Environment, requiring the Environmental  
Assessment Board to hold a hearing with  
respect to a Class Environmental  
Assessment (No. NR-AA-30) of an  
undertaking by the Ministry of Natural  
Resources for the activity of timber  
management on Crown Lands in Ontario!

-----  
Hearing held at the offices of the Ontario  
Highway Transport Commission, Britannica  
Building, 151 Bloor Street West, 10th Floor,  
Toronto, Ontario, on Thursday, November 8,  
1990, commencing at 9:00 a.m.

-----  
VOLUME 258

BEFORE:

MRS. ANNE KOVEN  
MR. ELIE MARTEL

Chairman  
Member





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I N D E X   O F   P R O C E E D I N G S

<u>Witness:</u>	<u>Page No.</u>
<u>GEORGE MAREK</u> , Resumed	46347
Continued Cross-Examination by Mr. Hanna	46347
Cross-Examination by Ms. Cronk	46468





I N D E X   O F   E X H I B I T S

<u>Exhibit No.</u>	<u>Description</u>	<u>Page No.</u>
1532A	MNR and Forestry Canada publication entitled Field Guide to the Forest Ecosystem Classification for Northwestern Ontario, dated 1990.	46391
1532B	MNR and Forestry Canada publication entitled Northwestern Ontario Forest Ecosystem Interpretations, dated 1990.	46391
1533	Hand-drawn diagram depicting explanation of OFAH term and condition No. 3.	46410
1534	Tab 1 - Interrogatory Responses: OFIA/OLMA Nos. 17, 23, 24, 26, 29, 31, 35, 37, 38, 41, 42, 53, 66 and 70; OFAH, Nos. 3, 4, 5, 11, 14, 19, 20, 21 and 22; MNR Nos. 3, 8, 9, 10, 13, 16, 17, 19, 23, 24, 26 and 29; MOE, Nos. 3, 6 and 10; NOTOA Nos. 1, 5, 7 and 8 re: FFT, Panel No. 3, and OFIA/OLMA Nos. 5, 7, 8, 10, 12, 14, 21 and 36; MOE No. 2; MNR Nos. 3, 5, 6, 10, 17 and 22 re: Beardmore-Lake Nipigon Watchdog Society.	46465
1535	Tab 2 - Interrogatory Responses: OFIA/OLMA Nos. 11, 12, 28, 30, 33, 36, 44, 48, 50, 51, 54, 56, 60, 62, 65, and 67; MNR Interrogatory No. 31 re: FFT Panel No. 3, and OFIA/OLMA Nos. 3, 9, 25, 26 and 34 re: Beardmore-Lake Nipigon Watchdog Society.	46466





I N D E X   O F   E X H I B I T S  
(cont'd)

<u>Exhibit No.</u>	<u>Description</u>	<u>Page No.</u>
1536	Coloured map depicting management units in vicinity of Lake Nipigon	46485



1 ---Upon commencing at 9:05 a.m.

2 MADAM CHAIR: Good morning. Please be  
3 seated.

4 Good morning, Mr. Hanna.

5 MR. HANNA: Good morning, Madam Chair,  
6 Mr. Martel, Mr. Marek.

7 GEORGE MAREK, Resumed

8 CONTINUED CROSS-EXAMINATION BY MR. HANNA:

9 Q. Mr. Marek, I would like to pick up on  
10 a theme we were talking about yesterday and that was  
11 the matter of improving our understanding and  
12 knowledge, need for research, and I would like you to  
13 turn to the OFAH terms and conditions on page 31,  
14 Section 6.5 at the bottom of the page is timber  
15 management research.

16 A. Right.

17 Q. And I would like you to look at the  
18 first term and condition which is directed towards  
19 obtaining earmarked funds for research on the  
20 environmental effects of timber management activities,  
21 and there is a number of specific research, three  
22 specific research topics that are set out there and I  
23 would like to deal with each of those individually with  
24 you.

25 Now, as I understand your evidence, you



1 would agree that the first area of research, the need  
2 for long-term productivity studies of forest soils  
3 modified by mechanical harvesting and site preparation  
4 is something you feel should be done?

5 A. Right.

6 Q. And the second thing is something  
7 that I will be talking with you about further this  
8 morning, but I believe you have spoken about the need  
9 to have a better understanding of successional trends  
10 in terms of particularly the floral forest communities,  
11 followed by timber management activities and, in  
12 particular, differences between natural and managed  
13 composition and structure of forest ecosystems?

14 A. That's correct.

15 Q. So you would agree with that?

16 A. Yes, I do.

17 Q. Now, the last subsection under  
18 Research is on page 32 at the top, and I'm not sure  
19 whether you wish to offer an opinion on this, when I  
20 asked you interrogatory questions you had suggested  
21 that some of the analysis should be done at a watershed  
22 level, and the focus of this particular term and  
23 condition is to look at watershed level type of effects  
24 in terms of water quality and quantity and the  
25 associated effects on aquatic communities.

1                   Is that the type of thing that you were  
2 suggesting when you said we should look at watersheds?

3                   A. Yes.

4                   Q. So you would support that also?

5                   A. Yes, I do. Very much so.

6                   Q. Now, the next term and condition,  
7 180, it's on that page.

8                   A. Yes, I see it.

9                   Q. The next one that follows along. It  
10 talks about the need to have up-to-date information,  
11 and we talked yesterday about technology transfer.  
12 This is really to ensure that foresters have access to  
13 scientific information, and what we are suggesting here  
14 are three things: That either they have should have  
15 coverage of not just silviculture, but other forest  
16 resource benefits which would be wildlife, fisheries,  
17 recreation, tourism, those things; secondly, that would  
18 be accessible to the foresters in the field through  
19 some type of electronic hookup that they would be able  
20 to get access into that system; and, third, that for  
21 each entry there would be a summary of the article,  
22 rather than having the whole article there, they would  
23 be able to get it up, get some understanding of what  
24 was there and if it looked like it was pertinent to  
25 their interest then they could get the full article.

1                   Would that be of valuable assistance to  
2   foresters in the field, in your view?

3                   A. Yes. If the input in that system  
4   would be realistic and qualitatively acceptable in  
5   scientific terms, yes.

6                   Q. And in your experience as a forester,  
7   is that type of information generally available to  
8   foresters at the present time on an easily accessible  
9   basis?

10                  A. Madam Chair, I think that there is a  
11   great lack of understanding of what Mr. Hanna is  
12   talking about. I think the access work is there, but  
13   it depends very much on the goals of the management  
14   itself.

15                  And I wish later on, when we get into  
16   discussion, to discuss this with Mr. Hanna because I  
17   hear frequently, for instance, as an example - may I  
18   bring up the FEC here - where FEC, according to our  
19   previous Minister, will provide the ultimate or the  
20   maximum qualitative input in forest management in  
21   prescriptions, in guidelines and so on.

22                  And somehow while I feel - and I share  
23   this opinion with Mr. Hanna that it is a valuable tool,  
24   it's a good beginning - there is lots and lots of  
25   improvement to be made to make it accessible and



1 understandable to the forester in the field when he  
2 manages the forest.

3 Q. Just so you and I are talking on the  
4 same terms, Mr. Marek, I don't disagree with you in  
5 terms of the need to improve and I think most of the  
6 parties I have heard here all have said we need to  
7 improve our knowledge as we go.

8 That's not taking away from the point  
9 about the goal, but I'm saying this need to improve  
10 information as we go and the purpose of that term and  
11 condition is specifically to that end, to try and  
12 improve the understanding and knowledge and awareness.

13 Can we turn now to the interrogatories,  
14 Mr. Marek, Exhibit 1531. These are the OFAH  
15 interrogatories that I provided to you yesterday.

16 A. Yes, I have it here.

17 Q. That doesn't look like it.

18 A. No.

19 Q. Not that yet. We will be talking  
20 about that later.

21 MS. SWENARCHUK: (handed)

22 THE WITNESS: Thank you.

23 MR. HANNA: Q. Can we look at  
24 interrogatory No. 4, please?

25 A. Four?

1 Q. Yes, please.

2 A. Question...?

3 Q. Question No. 4.

4 A. Yeah.

5 Q. This is just a clarification. 4(1)

6 asks you to define what is meant by wasteful and you  
7 make reference in your answer to MNR, "see answer to  
8 MNR on costs."

9 I just wanted to confirm that you were  
10 referring to interrogatory question 10(b) of the  
11 Ministry of Natural Resources on your witness  
12 statement?

13 A. Yes, that's correct. This is only  
14 one of the "wasteful" aspects.

15 Q. No, this is just a point of  
16 clarification. I'm not taking waste any further. I  
17 just wanted to make sure I understood the reference.

18 A. Okay.

19 Q. Can we look at interrogatory No. 5  
20 which is dealing with the statement on page 2,  
21 paragraph 3 of your witness statement in which you  
22 discuss this need to change the goals from one of  
23 maximizing immediate returns to a longer term  
24 perspective looking at the whole ecosystem.

25 A. Mm-hmm.

1 Q. And No. 4 asks for examples of  
2 alternative decision rules being used operationally for  
3 timber management planning in other jurisdictions. In  
4 your response you indicated that various places in  
5 Europe and the United States.

6 Now, the point of the question is this:  
7 I think we had a discussion yesterday about the need to  
8 be as explicit and succinct as possible in terms of  
9 specifically what is you want to see, and I think you  
10 made reference yesterday to the fact that you have seen  
11 plans that would be responsive to the types of concern  
12 that you have raised, not in material necessary but you  
13 have seen plans that would be responsible?

14 A. That's correct.

15 Q. It would be very useful to me, and I  
16 think perhaps to the Board, to have one of those  
17 examples that we could look to see the types of changes  
18 in a comparative way to the plans we have in Ontario in  
19 order to advance the types of concerns that you have.

20 Would you be able to put your finger on  
21 one, say the forest you were in Poland in 19 -- I don't  
22 know. I'm really at ends, but if you can give me a  
23 specific example that would help greatly.

24 A. Well, Madam Chair, I've already dealt  
25 with partly this issue before. As you know, I



1 criticize TMPs and planning processes lacking certain  
2 quality which I, as a forester, feel should be in.

3 One of them is the protective aspect of  
4 forest management. We have nowadays timber management  
5 plans which very broadly and very superficially  
6 describe some of the groundrules; for instance,  
7 prescription for silvicultural harvesting practices.

8 I mentioned to you Madam Chair, and Mr.  
9 Hanna you were not here, but I have stated, for  
10 instance, that you have a prescription, and I have  
11 several examples at hand here, where it says "area will  
12 be clearcut, it will be planted, it will be chemically  
13 treated, tended once or, if necessary, twice and that's  
14 it."

15 So this prescription or the quality of  
16 prescription to my knowledge and my professional  
17 thinking is not satisfactory. There should be many  
18 other aspects. I remember talking to you a few days  
19 ago, there should be probably two or three specified  
20 improvements how will this be achieved, on what  
21 condition we are dealing with, the cut-over condition  
22 after the forest is cut, the inclusion of risks and so  
23 on, and that is absolutely necessary in order to have  
24 more meaningful and understandable.

25 Also; I would say it should be good help

1 to communicate this information to the public so public  
2 is not just faced with this bang, bang, bang, quick  
3 prescription and perhaps could demand more  
4 clarification just looking in that plan.

5 Yes, I have worked in Europe on plans  
6 like this and perhaps one of the problems we are having  
7 is to eliminate this, and I hope, since you guided me  
8 into it, how could we improve it, how could we  
9 eliminate it, that the fellow who's in charge of the  
10 planning process is actually doing the timber  
11 management plan and enforcing it later on and be guided  
12 by it.

13 So under present conditions he is not  
14 only not equipped to do it this way, as I am suggesting  
15 we should put in this improvements, but also he is not  
16 capable because the forest managers - to give an  
17 example - are colouring maps and doing all kinds of  
18 things in the office, they haven't time to go outside.  
19 They haven't got the background knowledge of the sites  
20 and conditions there because frequently they are very  
21 new in the area, they lack experience and whatever  
22 times they have they have to spend on perhaps tasks and  
23 work which could be done by somebody else and that  
24 somebody else obviously shouldn't be the manager who  
25 manages this area.

1                   The input should be very much controlled  
2     by the manager, after all he's responsible, should be  
3     be responsible for it, but he cannot be because he is  
4     just tied with stuff that I don't think should be  
5     performed by him.

6                   Q. Okay. I appreciate that answer, but  
7     I'm particularly interested in a tangible example of a  
8     plan that you would say exemplifies the types of  
9     alternate, how should I say, concept of the forestry  
10    that you are proposing in terms of dealing with other  
11    decision rules, in terms of whether what you are trying  
12    to achieve in the forest, those types of thing.

13                  Is there somewhere I can go and say there  
14    is a plan that Mr. Marek would say responds to the  
15    types of concerns he's raised?

16                  A. Well, if you see Mr. Marek's plan,  
17    you are obviously going to deal with issues that the  
18    present planning system and that present plans do not  
19    deal with.

20                  Q. Mr. Marek, I just want to make it  
21    clear. I am not limiting your sphere of examples to  
22    Ontario. I am wondering if I could go to southern  
23    United States or to somewhere in Europe, I don't know  
24    where, but somewhere that the type of alternate  
25    forestry approach that you are talking about is



1 exemplified in the timber management plan?

2 A. I'm going to make it clear again,  
3 Madam Chair, that it would be very useful for the  
4 Board, before you make the recommendations, to get hold  
5 of some of these plans.

6 Mr. Hanna, I cannot go in detail in  
7 saying from page 1 to 350 in the timber management or  
8 forest management plan. What you deal with is this.

9 Right from the beginning, I would say,  
10 the philosophy expressed, if you deal with  
11 multi-purpose forestry or if you deal with timber  
12 management; in other words, you have a plan which here  
13 relies on kind of nebulous statements that we are  
14 trying to do this and one of the good statements which  
15 I would disagree is right on the page which I have put  
16 before you, Madam Chair, in my statement where you have  
17 a forester start with a statement: Because nature do  
18 it this way we are trying to do the same thing, or he  
19 states because fire was -- this is one of the hundreds  
20 of examples which would identify the difference between  
21 proper management planning and this kind of  
22 haphazardous quick planning which is done here, but you  
23 state right from the beginning certain facts about the  
24 land you have and you are going to manage.

25 In Europe you wouldn't get away, saying:

1       Okay, nature did it at such a time, we are trying to  
2       duplicate and it or -- it is stated: Look, we have a  
3       land which looks like this, describe very clearly and  
4       in detail part of this land and the components of the  
5       land and what are the goals and why you hvae that plan  
6       in the first place.

7                       So you have a basic difference in such --  
8       for instance, I have seen a management plan from the  
9       State of New York on some of these things and it is  
10      amazing what these people are putting in which are in  
11      detail because they know the area very, very well.  
12      They can have a planning system which deals with: This  
13      is what we know, this is what we want, and they put the  
14      things together.

15                     Now, I don't want to go into detail  
16      because I could spend a whole day describing, for  
17      instance, a plan I have worked on, not as a timber  
18      manager because I was young, I was implementing the  
19      guideline and the timber management or the forest  
20      manager who was in charge said: Well, I don't think it  
21      should be done this way because -- so you have a  
22      different input there.

23                     MADAM CHAIR: Are you saying, Mr. Marek,  
24      that the first statement in a timber management plan,  
25      the philosophical statement has to be unique to the

1 area of the boreal forest that we are talking about?

2 THE WITNESS: Very much so.

3 MADAM CHAIR: You can't pick this up from  
4 Europe, you can't pick it up from the United States?

5 THE WITNESS: No, it's very specific. We  
6 are dealing with different goals and these goals,  
7 again, are very important.

8 Mr. Hanna, may I ask you that question  
9 now which bothered me last night. How can one -- one  
10 cannot perceive a good management plan when the goals  
11 are very nebulous. Somebody says we are going to  
12 intensify management or we are going to practice such  
13 and such a type of method, not exactly knowing what it  
14 means.

15 MR. HANNA: Q. We are going to come to  
16 that, Mr. Marek.

17 A. Okay. That's what I'm waiting for.

18 Q. Can we move to interrogatory No. 6,  
19 please, and this deals with page 4 of your witness  
20 statement, and you have mentioned in your witness  
21 statement that nature and time will heal the problems  
22 caused by forestry operation, at least some people  
23 believe that.

24 A. That's correct, that's better.

25 Q. And a question was asked to you: For

1 sites for which nature and time may be the appropriate  
2 of response, how will these sites be identified and  
3 your response was: Pre-harvest assessment, stand and  
4 site conditions.

5 Now, the issue that I'm trying to clarify  
6 here is what would constitute an adequate pre-harvest  
7 assessment? The reason I raise that, and this is  
8 something I'm trying to deal with in all my questions  
9 to you, is there is the potential of people coming  
10 forward and saying everything Mr. Marek said and we are  
11 doing at the present time and that may be true in form  
12 but not in function?

13 A. In practice?

14 Q. In practice.

15 A. Okay.

16 Q. So what I want to understand in as  
17 precise and specific way as what you would see would be  
18 necessary in terms of a pre-harvest assessment in terms  
19 of determining the appropriate silvicultural  
20 prescriptions.

21 A. The timber manager, I point out  
22 already, Madam Chair, should be experienced,  
23 responsible, truthful, professional who goes in a  
24 forest - and you have suggested to me that that would  
25 be probably the way - and then assess, with the help of



1 these books and many other guidelines, the potential of  
2 the sites vis-a-vis disturbance, vis-a-vis the  
3 follow-up after disturbance has been diagnosed and it  
4 is a diagnostic thing, then I suppose the next step  
5 would be make a proper prescription for cutting, for  
6 harvesting practices and also for the silviculture  
7 renewal.

8 Q. Is it fair to say then that what you  
9 are proposing is that the forester responsible should  
10 visit the site and should attempt to categorize it  
11 according to effect type of procedure?

12 A. As much as possible, as much as he  
13 can, as many times as he can afford to. Yes,  
14 absolutely necessary.

15 Q. In terms of the FEC types that would  
16 be acceptable for the time and nature healing process  
17 versus some other process, that would be decided on a  
18 timber management plan by timber management plan basis  
19 according to the local site conditions, or are you  
20 looking at a provincial type guideline that would be  
21 dealing with that?

22 A. The provincial guideline has to be  
23 improved, and I have already during my testimony  
24 indicated many times that I am against some kind of  
25 very simple cookbook approach.

1                   But, on the other hand, considering that  
2           one forester is looking at thousands and thousands of  
3           hectares of the forest estate with the funding and with  
4           the support he has - and I'm talking about MNR and  
5           Industry - one should again don't expect any miracles  
6           because the kind of constraint the fellow has is  
7           affecting the performance and the prescription  
8           eventually applied in the forest and the treatment  
9           which is the forest...

10                   Q. All right. I am going to put a  
11           different vein on this or different perspective on this  
12           and get your opinion on this; and that is, when Dean  
13           Baskerville was here, and in fact the forest industry  
14           put forward the same premise in a number of their  
15           witness statements, and this is the need for  
16           flexibility, that you don't handcuff foresters and tell  
17           them what to do because then it removes the art and  
18           science from the very practice that they are  
19           undertaking.

20                   One of the ways that Dean Baskerville  
21           proposed to try and deal with that was to set out very  
22           clear objectives in terms of what you wanted to  
23           achieve?

24                   A. Goals.

25                   Q. If goals is more comfortable for you,

1 then we will use goals.

2 A. Very frequently, Mr. Hanna, we talk  
3 about goals and objectives and the term goals is a very  
4 relative term.

5 Q. A very...?

6 A. Very relative.

7 Q. I see a difference between goals and  
8 objectives and a goal is global type direction that you  
9 take in a qualitative way, an objective is a specific  
10 measure objective you want to achieve. That's the  
11 difference. When I use the words, that's the  
12 difference I am using between goals and objectives.

13 A. All right.

14 Q. Now, if we approached forestry or  
15 forest management from that point of view, and let's  
16 deal specifically with this matter of prescriptions on  
17 a site-specific basis, if we set out to the forester  
18 the need to provide a forest ecosystem in terms of  
19 different characteristics, I won't specify them right  
20 now but they might be, for example, that the forest  
21 composition in the successional forest is comparable to  
22 what the current --

23 A. Not current. Previous you mean?

24 Q. The previous, I'm sorry. The  
25 previous successional was. We set those objectives out

1 and we set out objectives in terms of wildlife, we set  
2 objectives in term of forest yield and a variety of  
3 things like that.

4 Is that not a way to deal with some of  
5 concerns that you have raised without having  
6 necessarily to get into saying: On this particular FEC  
7 you have to do this particular silvicultural  
8 prescription?

9 Do you follow what I mean? What I'm  
10 saying is, those decisions will still be necessary for  
11 an expert like yourself who is in the field to make  
12 those determinations, but then that flexibility, that  
13 ability to use your knowledge and experience will be  
14 transferred to you rather than taken away from you?

15 A. Transfer or taken away?

16 Q. The responsibility to make that  
17 decision. I can take that decision away from you if I  
18 say: Here is a specific standard that you have to  
19 follow, Mr. Marek, and you're essentially a cog in the  
20 wheel, or I can say: Mr. Marek, produce for me this  
21 and I don't really care how you produce it, you are the  
22 guy who knows the forest?

23 A. Very well put. Then you talk about  
24 goals which have been set up higher up by our political  
25 masters who are going to decide that the country will



1 run this way or that way and that's when prioritizing  
2 comes in.

3 Now, Mr. Hanna, I think that perhaps you  
4 and I are raised in different expectations and  
5 different kind of philosophy. It seems to me that  
6 question will be resolved when we finally decide what  
7 the goals would be, No. 1, for a longer period of time,  
8 and, therefore, we have these timber management plans,  
9 very important. Those goals including eventually the  
10 prescription, the groundrules, they are there in stone,  
11 nearly in stone because catastrophe may appear, drastic  
12 changes may -- we may be all be dead tomorrow.

13 That is something that our timber  
14 managers are not dealing with; for instance, sustained  
15 yield policies, there are many people out there who  
16 tell you this: Sustained yield policy entrenched in a  
17 timber management plan is nothing else but economic  
18 invention.

19 In other words, what lots of people tell  
20 me and even European scientists who say: Terms of  
21 economic, sustained yield management is strictly  
22 economics, virtually you cannot have a sustained yield  
23 because due to the changes No. 1, No. 2, 10, 15 years  
24 in the future. Forest is changing, it's very  
25 adaptable. So sustained yield is imaginary kind of

1 goal that we would like to have a forest where we can  
2 have goods in perpetuity and is run by economics.

3 Now, in Europe, of course, the forest  
4 manager in the timber management plan has a much  
5 serious status, and by status I mean that most of the  
6 foresters or most of the technicians, most of the  
7 bureaucrats, most of the politicians say: That is what  
8 we have to go by, that is what we consider as very  
9 serious documents, very serious documents, and I have  
10 to go back to that job when you over-cut five cubic  
11 metres of veneer oak. You know what can happen.

12 Now, that never would happen here. We  
13 are too free and too -- I would say we in forestry in  
14 general we consider: Well, he operates on a sustained  
15 yield base and everything is fine.

16 Q. Mr. Marek, what I hear you saying is  
17 that the reason that you just about lost your job with  
18 the oak --

19 A. I didn't lose a job.

20 Q. I said just about.

21 A. I could have.

22 Q. Could have lost your job was because  
23 there was a very specific objective in your timber  
24 management plan--

25 A. Right.

1 Q. --that said here specifically is what  
2 you have got to do with that plan?

3 A. And you do it.

4 Q. Now, that's fine, but what I'm saying  
5 is if I give you a specific objective and I also give  
6 you marching orders that says, you turn left here and  
7 turn right here and you basically are given no  
8 volition, then the foresters --

9 A. He's not restricted.

10 Q. He's not...?

11 A. He's not restricted. You try to tell  
12 me, Mr. Hanna, that there is a certain restriction or  
13 certain limitation of power on forester who is running  
14 or who's managing the forest; is that so?

15 Q. I don't think you are fully  
16 understanding the situation I'm putting forward to you.

17 If I say to you as a forester: Look,  
18 this is the amount of veneer oak you have to produce  
19 off your forest, and I say to you: Mr. Marek, you are  
20 the unit forester responsible for that, I am going to  
21 give you a lot of power, but I am also going to give  
22 you a lot of responsibility?

23 A. Exactly.

24 Q. And the responsibility is you produce  
25 that wood because if you don't you are in trouble. The

1 power is, you look at your forest, you know your forest  
2 and you design your forest management in the best way  
3 you know how to produce that oak.

4 A. According to the management plan.

5 Q. Is that consistent with your  
6 philosophy?

7 A. It is.

8 Q. Now the question is: If I do that,  
9 do I then need to tell you at a stand level in specific  
10 terms the silvicultural prescriptions that you should  
11 impose on those stands because of all the dynamic  
12 issues that you have talked about, all the various  
13 things that we have discussed?

14 A. When you are an author of a timber  
15 management plan, you automatically take the  
16 responsibility that you will execute the prescription;  
17 in other words, whatever is in the timber management  
18 plan. Very rarely conflict occur or should occur.  
19 Let's put it this way, here it occurs frequently  
20 because we have different goals, objectives.

21 Q. The goals and objectives are not  
22 stated clearly and so there is that flexibility that  
23 you are concerned about?

24 A. And they are not taken too seriously  
25 either.



1 Q. Fine, I accept both those points.

2 A. Okay.

3 Q. My point -- here is what's driving me  
4 to these questions, is that I look at the types of  
5 proposals that you are bringing forward and when I look  
6 at that and I say: In order to implement some of the  
7 proposals it would require, instead of the  
8 silvicultural groundrules as we currently have them,  
9 which is basically you've got a black spruce working  
10 group and here's a whole range of harvesting procedures  
11 regeneration, and site preparation procedure and  
12 whatever --

13 A. Not too many, sir.

14 Q. Well, the problem is there are often  
15 quite a few and no one really knows what is going to  
16 happen. I think that's one of your concerns.

17 Now, if on the other hand, I say to the  
18 forester in very specific terms: This is what I want  
19 you to produce in terms of wood, this is what I want  
20 you to produce in wildlife, this is the biological  
21 diversity I want you to maintain in the forest, do I  
22 need to go down to the stand level and prescribe also?

23 A. How else can you do it? You have to  
24 go down to the stand level.

25 Q. The forester absolutely has to go

1 down to the stand level, but from -- I'm looking at it  
2 from a process point of view. I'm not looking at it  
3 from a forester point of view like you out in the bush.

4 A. From the planning...

5 Q. I'm looking from the planning point  
6 of view. I am staying from the people -- the public  
7 who want to have some assurance that their forests are  
8 going to be taken care of, does the public also have an  
9 indepth insight into those specific, site specific,  
10 stand prescriptions if they are confident that those  
11 objectives are clear, concise and are enforced  
12 strictly?

13 Does that not deal with the concern and  
14 provide the flexibility that someone like yourself  
15 needs to manage this forest?

16 A. Not at all. If I understand you very  
17 well you are trying to tell me, Mr. Hanna, that if I  
18 put my name as a professional man in a timber  
19 management plan on the front page or last page, it  
20 doesn't make any difference, if I do that I immediately  
21 am signing my professional integrity, my profession  
22 pride and all that goes with it into that plan.

23 Now, nothing is written in stone. In  
24 Europe, there are also "amendments", there are also  
25 changes because, as said two minutes ago, everything

1 changes and there are unforeseen problems with  
2 forestry, but it has nothing to do with me to comply  
3 then with amendment because I agree and I need to be  
4 satisfied that indeed that plan, even if it's amended  
5 for very specific purpose which are not -- you know,  
6 let's be clear that the amendments which I follow, if  
7 someone wants to pick up on the roads over there or  
8 wants access to this or this, lack of summer wood, they  
9 want to have winter wood, lack of funding, they just  
10 ask for amendment.

11 In Europe this is not the case. In many  
12 plans I have done, these plans are very binding. Now,  
13 reason for that, of course, is also that in Europe they  
14 know more about planning, they know about these stands,  
15 they know with the country, they have steady foresters,  
16 they have lots of stuff and I don't know how many.  
17 That is the problem.

18 Once I put -- I feel the same way when I  
19 was looking at the management plan as a supervisor or  
20 unit forest, I was very skeptical. I said: This has  
21 to be changed, we have to have more in that plan and  
22 don't make it something which you read and then put it  
23 on a shelf and say: In the next 20 years we are going  
24 to look at it again or in the next five years.

25 Now, this is changing now, Mr. Hanna. It

1 is changing drastically because these people won't get  
2 away with it. They have to work hard on these plans  
3 now because you fellows are pushing them. You are  
4 given the incentive, say: Practice better forest  
5 management, but in general this is still not  
6 satisfactory.

7 When you talk about public, Mr. Hanna,  
8 you know public is not a God, publics are people like  
9 you and I who sometimes have trouble to understanding  
10 what the management plan is really saying, but there is  
11 a certain trust between us and the public. So we have  
12 to communicate and people and say: Well, Joe Dow make  
13 that plan, he knows something about timber management,  
14 he's here for long, he knows. I trust him.

15 There is always the segment of trust and  
16 credibility and, Mr. Hanna, I think that's one of the  
17 greatest problem we have right now, that most of the  
18 public, including your hunters and fishermen, say:  
19 Well, I don't trust what is there. That's all.

20 Q. Mr. Marek, can we move to  
21 interrogatory No. 9 and particularly the --

22 A. You are talking about question 9?

23 Q. Yes, question No. 9, subsection 3.  
24 This is dealing with page 5 of your witness statement  
25 and at the bottom of page 5 you make the statement:



1 "Did we renew the old forest or did we  
2 replace it with something else. If we  
3 did, what would the value of this  
4 second growth forest be."

5 And what I'm interested in discussing  
6 with you is not the importance of that question, I  
7 accept the importance of the question, but how do we  
8 come to grips with answering the question and the  
9 question I am particularly interested in is  
10 anticipating what the new forest will be.

11 Now, you referred or I asked you a  
12 question or the Federation did through the  
13 interrogatories in question 17 a related question which  
14 referred to paragraph -- or page 29 of your witness  
15 statement, paragraph 1, and this is where you were  
16 talking about the many factors that affect the forest  
17 succession, forest stability and whatever?

18 A. Yeah.

19 Q. And the third part of that  
20 interrogatory asked:

21 "Is the author of the opinion that with  
22 our current knowledge forest succession  
23 patterns for the second growth forest can  
24 be tied to the FEC systems?"

25 And your response was:

1 "No, this is important area for further  
2 research."

3 Now, I agree it's an important area for  
4 further research. What I'm more interested in is what  
5 we can do practically now or whether we have to wait 20  
6 years to get the results of that research.

7 A. Good point. More or less you ask me  
8 personally what I would do or what somebody else would  
9 do?

10 And, again, in our profession we have a  
11 different opinion how to treat this problem if the  
12 problem exists and is recognized. It seems to me that  
13 we have to recognize problem, not only second growth  
14 and dynamics and what we can get out of it, we must go  
15 deeper than that and learn and apply it in our efforts  
16 which we say is going to be intensified forest  
17 management. There are important lessons to learn.  
18 That's why I mentioned research. There are some basic  
19 discrepancies of our understanding of second growth.

20 Mr. Hanna, I have testified before the  
21 Board that as far as second growth is concerned, and  
22 I'm talking about second growth since the harvesting  
23 started 50 years or 60 years or something now, that we  
24 have created stands which never been here before.

25 In other words, the natural stands were

1 established by certain rules of nature, we harvested  
2 them and because we have denied fire to take these  
3 natural procedures, we are dealing with a condition of  
4 forest which is amazingly complex, amazingly complex,  
5 difficult to understand and full of risks, instability.  
6 Gosh, I don't know what else.

7                   So how are we going to deal with that  
8 problem, this is what you are saying me. I think this  
9 this problem I dealt for many, many years and  
10 interesting when we had a 1978 forest regeneration  
11 conference or was that 19 -- I forget now, but anyway,  
12 in Thunder Bay and the other one was in Kapuskasing. I  
13 was so anxious to get that topic on the agenda. I  
14 said: Look, we have this problem coming up with these  
15 second growth stands, what are you going to do with it,  
16 how are we going to get prepared for this problem, and  
17 nobody would touch it because everybody says: Well,  
18 that's research and the forester says: Well, how can I  
19 do it.

20                   So there was a general disagreement and,  
21 practically speaking, this agenda on this issue didn't  
22 come for discussion at all. They were talking about  
23 balsam fir and many at that time said: Well, it may be  
24 a problem, but we will see how it is developed.

25                   Well, this is a typical example. Again,

1 let's go back to the management plan itself. This is  
2 not discussed. This was not discussed, and now when  
3 the company of course gets in a problem with these  
4 areas which are being -- that everybody says: What are  
5 we going to do, what are we going to do, once they cut  
6 it, next time they know not to cut it, the third one  
7 says -- so we have a problem to explain really clearly  
8 to ourselves is there a problem, what kind of problem,  
9 how vast a problem, can we get a shear measure of that  
10 problem and what are we going to do about it.

11 Q. Mr. Marek, I hear what you are saying  
12 and I want to make sure you understand that I'm not in  
13 any way disagreeing that it's an important area for  
14 research.

15 A. Good.

16 Q. What I'm asking you is: What do we  
17 do in the meantime?

18 I look specifically at the exhibits that  
19 you have introduced in your evidence, I'm looking at  
20 Exhibits 1524, -25, -26, and -27 which are all works by  
21 Dr. Carlton. Dr. Carlton, as you know, has been  
22 involved in this field for over 20 years, he is, I  
23 think you will agree, a thorough and competent  
24 researcher, he is a well-known forest ecologist.

25 If we look at the types of work that he



1 has done, you can see that there is a pretty good  
2 understanding at the present time of succession  
3 patterns, not a full understanding. We haven't gone  
4 through the second forest, we don't know know exactly,  
5 but we have got some understanding, some initial  
6 understanding of what those successional patterns would  
7 be.

8 How is the best way to use that  
9 information now while researchers like Dr. Carlton  
10 continue their work over their lifetime and probably  
11 lifetimes following?

12 A. Dr. Carlton is very competent, one of  
13 the scientists who is ready to deal with this problem.  
14 Mr. Hanna, we have problem in research where who  
15 assigned the priorities and what the scientists are  
16 ready to do and you -- in other words, the kind of  
17 marching direction, goals and objectives.

18 I think that Carlton is one of the  
19 scientists who specializes in this field, forest  
20 success, the very interesting side what the forest  
21 floor does for us, and I am talking very generally now.

22 Many scientists I have approached on this  
23 issue, many years ago, that was 20, 35 years back and  
24 it goes back even now, refuse or are hesitant to get  
25 involved in that kind of research, that basic research,

1       because, No. 1, say we haven't got the stuff; No. 2, we  
2       have all kind of working groups together to get  
3       involved with it. You cannot do it in isolation and I  
4       went through that.

5                       That is, again, research has to somehow  
6       be put into the MNR program or CFS program or national  
7       council program where the attention will be drawn.  
8       That is a very important aspect of management, let's  
9       investigate and let's do research.

10                      Q. Mr. Marek, I want to come back. I'm  
11       not challenging the need for more research and this  
12       research should not be done and I appreciate your  
13       comments in terms of trying to organize and formalize  
14       it so that there is some continuity in it. I accept  
15       that.

16                      What I'm interested in is more  
17       specifically the questions that I referred you to in  
18       the interrogatories; and that is, trying to make the  
19       connection now with the best information we have at the  
20       present time between FEC, successional forest and what  
21       the new forest is going to look like, so we can start  
22       incorporating this type of knowledge in the plans now  
23       at the present time.

24                      A. Sir, I'm sorry, that information,  
25       that basic information is not with us and I hate to say

1 that how can you use something you don't have. If we  
2 are going to start incorporating my etiological  
3 approach to forestry, what I have observed in the last  
4 40 years, more than that, from Europe; in other words,  
5 what I feel is happening there and how am I going to  
6 put into the management plan?

7 Immediately, lots of forester and lots of  
8 people going to say: Well, let's get some forestry and  
9 you are asking me how are we going deal to deal with  
10 that problem; is that right?

11 So when I deal with it on a personal  
12 basis, I am going to put down in the plan, which I have  
13 done many times, I have put down, this is what I have  
14 seen, this is what I think is happening. I will be  
15 very careful in saying what is going to happen in 5,  
16 10, 15, 20 years, but I could and it's a matter of  
17 feeling, it's a matter of cognizance there.

18 Q. But, Mr. Marek, that is the point.  
19 You are saying precisely the point that I'm trying to  
20 make with you; and that is, you saying that you are  
21 going to practice your style of forestry and implicit  
22 in that is a forecast of what the succession of the  
23 forest is going to be based upon your knowledge, and  
24 I'm simply saying you have got a knowledge of the  
25 forest you have worked on, Dr. Carlton has got a

1 large--

2 A. From Clay Belt.

3 Q. --analysis of different stands in the  
4 Clay Belt and I think elsewhere that he has looked at  
5 and he says, here is what we can see happening in terms  
6 of forest succession.

7 All I'm saying to you is, is it not a  
8 useful exercise to take that knowledge and to  
9 incorporate that in the plans in whatever way to  
10 forecast what the new forest is going to be like so  
11 that the public is at least given some insight as to  
12 what the new forest is going to look like and make a  
13 decision on that basis?

14 A. I didn't say no.

15 Q. Good. Did you say yes?

16 A. Yes.

17 Q. Thank you. I come back to your  
18 response in 17(3) where you said: No, this is -- when  
19 I said, can we make that connection between the FECS  
20 and the successional forest and you said: No, we  
21 cannot. I think what you are saying is: No, we can't  
22 do it precisely at the present time, we need much  
23 better knowlege?

24 A. Right.

25 Q. But you are aren't saying, no, we



1 shouldn't do it with the best information we have at  
2 the present time?

3 A. Of course not. I have shown that  
4 very clearly in my slide presentation, Mr. Hanna, and I  
5 think that's, again, one priority that should be looked  
6 at and let's -- how much we are still mything, let's  
7 start someplace and start documenting these things in  
8 such a way that this, that should be input in this.  
9 (indicating)

10 Q. And include that type of analysis in  
11 the timber management plan itself?

12 A. Right. It doesn't have to be big  
13 detail thing, at least make the suggestion, at least  
14 mention that this will happen or this will occur.

15 Q. Now, can you turn to Exhibit 1284  
16 which is the draft terms and conditions on biodiversity  
17 for the Anglers and Hunters.

18 Madam Chair, I have some extra copies.

19 A. This one? (indicating)

20 MR. HANNA: I have some extra copies for  
21 people who don't have it with them.

22 Q. Now Mr. Marek you had a chance to  
23 review this? I provided it to you yesterday evening?

24 A. Yes.

25 Q. Okay. Now, one of the focuses of

1       this is to try and deal with the type of issue we have  
2       just been talking about in terms of providing some  
3       assurance and understanding to the public in terms of  
4       what the new forest is going to look like.

5                     A.   Okay.

6                     Q.   That's the purpose of these--

7                     A.   Okay.

8                     Q.   --draft terms and conditions.  It is  
9       dealing with that issue that you have raised in a  
10      number of occasions in your evidence; and that is, the  
11      need for forest stability and to try and at least  
12      maintain what we have at the present time.  That's the  
13      intent of it.

14                    Now, I would like to talk with you about  
15      how well it achieves that.  Now, I would like to deal  
16      with each of these terms and conditions individually.

17                    You understand how it is set up, the  
18      first page is the term and condition itself and the  
19      second page is the rational?

20                    A.   Yes, I went through it.

21                    Q.   Okay.  Can we deal with the first  
22      term and condition which is requiring that the FEC  
23      system be expanded to cover the entire area of the  
24      undertaking.  Would you support that?

25                    A.   You have window of three years?

1 Q. Yes.

2 A. You are talking about areas outside  
3 the Clay Belt FEC and outside northern Ontario?

4 Q. Yes.

5 A. You are talking about farther up  
6 north?

7 Q. Within the area of the undertaking.

8 A. Yes. Yes, it should be done and I  
9 think that they will do it. However, may I point out  
10 to you that I would assign before I do this -- it's a  
11 two-prong thing. We should obviously study the forest  
12 while it's still there and put other additions to it as  
13 a part No. 3, area such and such, okay, fine.

14 But in the meantime, sir, may I draw  
15 attention to one of the, again, problem I am having  
16 with FEC, and it has been stated in my testimony for  
17 FFT, that while this forest ecosystem classification  
18 Clay Belt and including the classifications --

19 Q. The interpretation manual?

20 A. Yes.

21 Q. Okay, fine.

22 A. And this little manual which goes  
23 with it to understand it better, fails to recognize  
24 changes after cutting has been executed, changes in the  
25 site itself --

1                   Q. Mr. Marek, I am going to go through  
2 these one at a time and we are going to deal with those  
3 in a minute. I think it would be much easier if we  
4 just deal with them one at a time. I'm sorry to  
5 interrupt, but --

6                   A. No, go ahead.

7                   Q. I just want to deal with them one at  
8 a time and we will deal with that need to deal with  
9 changes in the sites over time, but can we just deal  
10 with the first one. You were concerned about the three  
11 years. You said it has a time window of three years.  
12 Was there a concern with the three years, is that  
13 why...

14                  A. This present classification has been  
15 in the works now what, correct me if I am wrong here,  
16 it is around eight years because they were talking  
17 about 10, 15 years, but I think...

18                  I beg your pardon?

19                  Q. I just made a comment that I think it  
20 has been longer than that, but certainly it has been  
21 eight years.

22                  A. Okay, thank you. Time has passed.  
23 It doesn't actually make any difference.

24                  It's here, it's with us and to add some  
25 of the others into these two books, make it three



1 books, that's what I think you are talking about, three  
2 years, if they can do it, fine, do it.

3 Q. Okay. Can we deal with the second  
4 term and condition which says that:

5 "Before the timber management is approved  
6 the current state of the forest  
7 management unit must be categorized by  
8 FEC type in terms of area and seral  
9 stage unless a FEC system has yet to be  
10 developed for the forest management  
11 unit."

12 I will deal with "has yet" part in a  
13 moment.

14 In other words, basically taking  
15 inventory, providing an inventory of the forest  
16 management unit by FEC class and associate that with  
17 the seral stage. Now, I will deal with the seral --  
18 the need for successional components to the FEC in a  
19 moment, but do you see that as an important exercise?

20 A. If we can get that supplementary  
21 information into it, yes. See, what worries me, Mr.  
22 Hanna, we are comparing apples and oranges here.

23 I am going to ask you this question: You  
24 talk about forest as what? You talk about the old  
25 second growth forest, are you talking about the virgin

1 forest which is uncut or are you talking about this  
2 "areas" which were treated one way or the other for  
3 last 20, 30 years and, fourthly, what we are trying to  
4 do now in the forest; in other words, can I have it  
5 specified more clearly, perfectly knowing what you are  
6 after. I read that thing in the total context. I know  
7 what you are after.

8 I do not understand here exactly what  
9 forest you are talking about. Are we talking about --  
10 do you feel there is improvement succession, these  
11 things, but what forests are we talking about?

12 Q. Okay. Let me --

13 A. In other words, the goal?

14 Q. I'm not dealing with goals yet, I'm  
15 dealing with -- your question is, what forests are we  
16 talking about. The forests we are talking about is a  
17 geographical area which is a forest management unit,  
18 within that forest management unit are all the types of  
19 forests you have talked about.

20 A. Right.

21 Q. I accept that. Now, what the intent  
22 of this is to take that geographic area and to provide  
23 an analysis of it, an inventory of it in terms of its  
24 current status, in terms of the forest types, using the  
25 forest ecosystem classification as a structure around

1       which to do that inventory, and also to do a forecast  
2       of what that forest will look like using that same  
3       structure to try and project what the new forest is  
4       going to look like in terms of FEC?

5                   A. That's exactly the problem I'm  
6       fighting with. How can you use this in a clearcut area  
7       which lots of damage has been done and -- may I quote  
8       you something, Mr. Hanna? I don't know this is  
9       something I caught when I was writing my presentation.

10                   Here's a quote: "Characteristics -- "

11                   Q. Mr. Marek, just for the record, I  
12       want to make sure what you are reading from.

13                   A. Orientation in Northern Ontario  
14       Forest Ecosystem Interpretation.

15                   Q. Page?

16                   A. Page 1-9.

17                   Q. Thank you.

18                   MADAM CHAIR: Is there an exhibit number  
19       on the cover of that, Mr. Marek?

20                   MR. FREIDIN: It hasn't been made an  
21       exhibit, Madam Chair.

22                   MR. HANNA: It hasn't been made an  
23       exhibit yet.

24                   THE WITNESS: I think it's an exhibit.

25                   May I read now, Madam Chair?

1 MADAM CHAIR: We will just sort out  
2 whether we have it.

3 MR. HANNA: I don't think we have it  
4 exhibited, Madam Chair. The Ministry has released it.  
5 I could certainly be happy to have it as an exhibit.  
6 In fact, I think it should be an exhibit, but I have't  
7 got copies to supply to the parties.

8 MADAM CHAIR: Do any of the parties  
9 object to giving it an exhibit number now in the  
10 event --

11 MS. SWENARCHUK: I think that would be  
12 very helpful, Madam Chair, because it will be referred  
13 to throughout our case.

14 MADAM CHAIR: I don't know how you are  
15 going to get copies.

16 MS. SWENARCHUK: The Ministry has copies.

17 MR. FREIDIN: I just happen to have a  
18 few, I was going to use them in cross-examination. So  
19 during the break we will bring them upstairs.

20 MADAM CHAIR: All right. Well, let's  
21 give this document an exhibit number.

22 MR. HANNA: Madam Chair, can we make --  
23 there is a series of them and I would like to make the  
24 series of them an exhibit. There is one for  
25 northwestern Ontario and there are three documents that



1 go with that and there is one that goes for the Clay  
2 Belt. I think we should put them all as a group as  
3 exhibits.

4 MADAM CHAIR: What we have on exhibit now  
5 is the Clay Belt FEC?

6 MR. FREIDIN: That is correct.

7 MADAM CHAIR: We have that as an exhibit.  
8 So there are three additional documents to make an  
9 exhibit referring to the FEC system.

10 Do you want to do A, B C?

11 MR. FREIDIN: No, I think they should be  
12 given separate numbers, Madam Chair.

13 MADAM CHAIR: All right.

14 MR. FREIDIN: I think I should advise  
15 that seeing these things -- we will probably prefer  
16 making copies of the statements that people refer to as  
17 opposed to providing 10 or 15 copies at a hundred  
18 dollars a shot. That's what they cost. I will provide  
19 the Board with the originals and I will provide copies  
20 of other pages.

21 MADAM CHAIR: That's fine.

22 MR. FREIDIN: Can't we just provide  
23 photocopies?

24 MR. FREIDIN: Oh, yes, I suppose --

25 MADAM CHAIR: Why don't we do photocopies

1 of the document.

2 MS. SWENARCHUK: Of the document  
3 complete?

4 MADAM CHAIR: Yes, there is no point in  
5 getting the binder and all that business.

6 All right. Exhibit 1532 -- do you want  
7 Ms. Swenarchuk to read out all that stuff, Mr. Marek,  
8 and give us titles and that sort of thing, Ms.  
9 Swenarchuk?

10 MR. FREIDIN: Madam Chair, when we are  
11 doing an exhibit number for this northcentral, perhaps  
12 you can have A, B and C. There are three books that  
13 comprise --

14 MS. SWENARCHUK: I propose that Mr.  
15 Freidin read the list.

16 MADAM CHAIR: Why don't you read all of  
17 this out to us, Mr. Freidin, we are getting confused.

18 What will be Exhibit 1532?

19 MR. FREIDIN: All right. 1532A will be  
20 Field Guide to the Forest Ecosystem Classification for  
21 Northwestern Ontario. It is an MNR publication and  
22 Forestry Canada publication.

23 MADAM CHAIR: What is the date on it, Mr.  
24 Freidin?

25 MR. FREIDIN: There is no date, but it

1 was 1990. It was just released.

2 MADAM CHAIR: All right.

3 ---EXHIBIT NO. 1532A: MNR and Forestry Canada  
4 publication entitled Field Guide  
5 to the Forest Ecosystem  
6 Classification for Northwestern  
7 Ontario, dated 1990.

8 MR FREIDIN: The next exhibit, which will  
9 be same number with B, is Northwestern Ontario Forest  
10 Ecosystem Interpretations, same author, same date.

11 ---EXHIBIT NO. 1532B: MNR and Forestry Canada  
12 publication entitled  
13 Northwestern Ontario Forest  
14 Ecosystem Interpretations, dated  
15 1990.

16 MADAM CHAIR: Exhibit 1532C.

17 MR. FREIDIN: I don't have the proper  
18 title for the third one, but I will get it for you and  
19 advise you some time today.

20 MADAM CHAIR: Thank you, Mr. Freidin.  
21 All right. Are those the three documents that Mr.  
22 Marek has or just --

23 MR. FREIDIN: I think that Mr. Marek has  
24 A and B. You have the Clay Belt?

25 THE WITNESS: I have both Clay Belt  
and...

MR. FREIDIN: You only have two for the  
Northwestern, right? The third one is a plant guide.

1       You don't have that.

2                   THE WITNESS: That's the same thing that  
3       I am holding here.

4                   MR. WAITO: The third is plant  
5       identification.

6                   THE WITNESS: Plant identification. Oh,  
7       I see.

8                   MADAM CHAIR: We will wait, Mr. Freidin,  
9       for you to get the title for that.

10      ---Discussion off the record

11                   THE WITNESS: Can I see that plant one?

12                   MR. FREIDIN: We don't have it.

13                   MADAM CHAIR: Thank you, Mr. Freidin.

14                   Mr. Marek, go ahead and quote--

15                   THE WITNESS: Very important document.

16                   MADAM CHAIR: --from Exhibit 1532.

17                   MR. HANNA: I think it's B, Madam Chair.

18                   MS. SWENARCHUK: Mr. Marek, what's the  
19      title on the front of yours?

20                   MADAM CHAIR: The interpretations?

21                   THE WITNESS: Yes. Northwestern Ontario  
22      Forest Ecosystem Interpretations.

23                   MADAM CHAIR: All right, fine. Exhibit  
24      1532B. Go ahead, Mr. Marek.

25                   THE WITNESS: So we can proceed, Madam



1 Chair, now?

2 MADAM CHAIR: You sure can.

3 THE WITNESS: We nearly missed that very  
4 important document.

5 MR. HANNA: Q. I know exactly the train  
6 of thought, so I haven't lost it, Mr. Marek, and I am  
7 quite interested in your response. Sorry for the  
8 interruption. Page 9.

9 A. Yes, it's 1-9 there under Special  
10 Consideration.

11 May I read, Madam Chair?

12 MADAM CHAIR: (nodding affirmatively)

13 THE WITNESS: "Characteristics such as  
14 soil texture, moisture regime, drainage,  
15 cost fragments, content, mode of  
16 deposition of plant material and  
17 physiographic features, such as aspect  
18 and slope position, are relatively stable  
19 ecosystem components, even after  
20 timber harvest."

21 I think that perhaps we can discuss this.

22 MR. HANNA: Q. Okay. So as I understand  
23 the relevance and importance of that quote in light of  
24 our conversation, is this, Mr. Marek; and that is, you  
25 are stating that as a result of disruption that timber

1 harvesting can cause to the forest ecosystem that the  
2 new forest may not fall in any of the FECs that the  
3 natural forest reflected.

4 Is that the essence of the point?

5 A. We have got to be very careful there  
6 the ecosystem by itself, but the follow-up and the  
7 productivity may be different as one before.

8 Now, there are sites in Ontario, in Clay  
9 Belt or in the northern and northwestern region who do  
10 not undergo disturbance which will impede the  
11 productivity itself, but will impede the establishment  
12 of crop which was previously there.

13 Q. Okay. I am trying to put this into  
14 the context of the terms and conditions that we are  
15 talking about in terms of biodiversity.

16 Is the point that you are making that we  
17 need to add to the FECs the potential for additional  
18 FEC types that may not be there currently, but may  
19 result from the new forest, the activities that are  
20 taking place at the present time?

21 A. That's correct. The disturbance  
22 affects the ecosystems in such a way that the capturing  
23 of the site, the establishment of species is not  
24 identical to the one what was produced by the original  
25 ecosystem.

1 Q. Okay. So back to term and condition  
2 No. 2 which states that we need to put in place an  
3 inventory of the geographic land base according to FEC  
4 types and to look at those FEC types in terms of their  
5 seral state, what I hear you saying is that we cannot  
6 rely solely on the FEC in terms of natural forest, that  
7 we may need to add in some additional FECs to fully  
8 address that matter; is that correct?

9 A. Fully address in a way which even add  
10 here something, Madam Chair, and just relative stable  
11 ecosystem component. One of the very important  
12 components of site productivity is, for instance,  
13 acidity.

14 Now, anybody knows that increasing water  
15 table you are increasing the acidity of the sites. In  
16 natural ecosystems, the acidity decreases, site becomes  
17 more on the alkaline side and here is I think fair of  
18 these others to perfectly, clearly decide what's  
19 changing in this ecosystem.

20 Q. Okay. Let's take that. What you are  
21 saying is because of that change in terms of water  
22 table or whatever--

23 A. Acidity.

24 Q. --acidity, that that may affect the  
25 seral state and the ultimate successional progression

1 of that forest site?

2 A. Exactly.

3 Q. Okay. And I want to put that in the  
4 context of term and condition No. 2 that we have before  
5 us and that is, that comment doesn't take away from, at  
6 least as I see it, that term and condition.

7 The term and condition simply being,  
8 let's take an inventory, what we have at the present  
9 time in terms of the forest area, which is the forest  
10 management unit, in terms of its forest ecosystem  
11 classification types and that forest ecosystem  
12 classification types may be some additional types that  
13 deal with the new forest and look and see what the  
14 implications of that are over time.

15 Do you see any problem with using that as  
16 a structure to analyse and look at the forest?

17 A. I think basically that would be my  
18 choice.

19 Q. Yes. And can we deal then with the  
20 third term and condition which is:

21 "The stand prescriptions in the timber  
22 management plan shall be designed to  
23 ensure that a minimum 10 per cent of the  
24 total aggregate area in each FEC type in  
25 the forest management unit remains in the



1 oldest seral state..."

2 MR. FREIDIN: In perpetuity.

3 MR. HANNA: "...in perpetuity."

4 THE WITNESS: That bothers me, that  
5 perpetuity there.

6 MR. HANNA: Q. Okay.

7 A. Let's discuss it, Madam Chair. I  
8 think it's a very important aspect which you will deal  
9 with when you talk about sustained yield, site  
10 productivity and so on, what we have, what we will  
11 have.

12 Nothing lasts in a forest forever. What  
13 is constant in the forest is the change. That is one  
14 which is constant.

15 Q. Mr. Marek, before you go on, I think  
16 I know where you are going and this does not state that  
17 the same stand has to be in perpetuity in the oldest  
18 seral state.

19 The whole purpose of this term and  
20 condition is to deal with the dynamics of the forest.  
21 Just as long as we understand that. That's the whole  
22 purpose of this term and condition, to deal with that  
23 very dynamic.

24 A. Okay.

25 Q. Do you understand that? If you

1 don't, I will explain it further, but if that's the  
2 basis upon which you are making your answer, that's  
3 fine.

4 A. Does perpetuity mean that you are  
5 saying that the stands will, for instance, like black  
6 spruce or mixed working group, will stay there forever  
7 in a condition which is stable.

8 Q. No, absolutely not.

9 A. So let's go in detail because this is  
10 very important, sir. I have shown slides, and I don't  
11 want to confuse public here.

12 And, Madam Chair, you will remember the  
13 picture I have said the dynamics of the black spruce  
14 from the little one and the fire conditions right down  
15 to the last, it was 180 years old, and I said it is  
16 degraded to such a degree that we have completely new  
17 ballgame that was not there before?

18 MADAM CHAIR: Yes, Mr. Marek.

19 THE WITNESS: You remember that spruce  
20 disappearance and the succession came up with balsam  
21 fir.

22 That is what I would like to see  
23 understood and, sir, if you talk about perpetuity to  
24 leave these conditions go forever like that and learn  
25 from it, fine, but when you are going to use it as a

1 "seed source" or example to be perpetuated and enlarged  
2 on the size of the cut-over, for instance, on the new  
3 forest, that somehow I must be sure what you are  
4 talking about because there's a big difference.

5 Q. Can we look at the second page, the  
6 rationale for this term and condition, Mr. Marek, and  
7 in particular the second paragraph.

8 A. Would you guide me again?

9 Q. Sure. The second page.

10 A. Second page.

11 Q. No. 3.

12 A. No. 3. It says --

13 Q. Second paragraph. It says:

14 "If 10 per cent of the total area of each  
15 FEC type is maintained in the oldest  
16 seral state in perpetuity, this implies  
17 that the total area of the FEC in the  
18 forest management unit will not be  
19 drastically reduced within the forest  
20 management unit as a whole."

21 On one site you are going to have  
22 changes, the site is going to go from a regenerating  
23 forest to an immature forest.

24 A. Black spruce or balsam or whatever,  
25 okay.

1 Q. Whatever the succession is.

2 A. Okay.

3 Q. But the thrust of this term and  
4 condition is that in aggregate over time in perpetuity  
5 that the total inventory within your forest management  
6 unit of FEC types remains stable; in other words, it is  
7 a way to define the forest stability, forest continuity  
8 that you have raised in your evidence.

9 MADAM CHAIR: So, Mr. Hanna, you are not  
10 saying that 10 per cent has to be old forest. You are  
11 saying that 10 per cent has to be the oldest forest  
12 depending on all the timber management activities in  
13 the area?

14 MR. HANNA: Yes. One of the key issues  
15 in this, Madam Chair, and it will be something we talk  
16 about in our evidence, is actually the basis upon which  
17 you make those age-class distributions because  
18 obviously if the age-class distributions -- if you got  
19 less than -- if you have more than 10 age class  
20 distributions, you can't have 10 per cent in any case,  
21 it is just mathematically possible.

22 That is clearly what we are saying, is  
23 that a certain portion has to be in the oldest age  
24 class and part of that --

25 MADAM CHAIR: But the oldest age class



1 maybe 40 years.

2 MR. HANNA: That's a decision that has to  
3 be made, of course, yes. It could be an old growth  
4 forest, it could be 150 years. That will be a decision  
5 that will be made.

6 MADAM CHAIR: But if that were logged and  
7 your next oldest age class was 70 years, then you  
8 would --

9 MR. HANNA: No, Madam Chair.

10 MADAM CHAIR: So you would want to keep 10  
11 per cent of the oldest age class uncut?

12 MR. HANNA: We want that inventory there.  
13 It's not necessarily the uncut. It may be cut. When a  
14 replacement of that inventory is available, then you  
15 can cut that stand, but you have to ensure within your  
16 forest management unit that there is a proportion of  
17 the forest management always in that oldest age class  
18 category somewhere in your forest management unit.

19 MADAM CHAIR: So as your 10 per cent  
20 oldest forest decays, then you replace it with 10 per  
21 cent of the next oldest area in the management unit?

22 MS. SWENARCHUK: That would not be  
23 provided, though, in that paragraph.

24 MADAM CHAIR: Go ahead. We will explore  
25 this with Mr. Marek.

1 THE WITNESS: Mr. Hanna, we have started  
2 here something and I feel it's going to happen. Last  
3 night I dreamt of it.

4 MR. HANNA: Q. You told me you had a bad  
5 dream, Mr. Marek, this is it.

6 A. Well, once I hit this and once I was  
7 then comparing to the term of seral stage, and  
8 obviously we know what seral stage is, Madam.

9 MADAM CHAIR: We have discussed it at the  
10 hearing.

11 THE WITNESS: You did. Okay, so you are  
12 aware of it.

13 Practically in the forest, Mr. Hanna, the  
14 age classes are changing. In natural forest, old  
15 forest is replaced by new forest, the biome is  
16 perpetuated.

17 Under present system where we interfere  
18 with cutting, regardless if it's cutting of one tree or  
19 we are cutting the whole square miles, we are impacting  
20 on the original ecosystem. And what's happened here, I  
21 have pointed out that, for instance, 180 year old  
22 stand, overmature, they cut, spruce is being replaced  
23 perhaps by balsam fir and then later on I don't know  
24 what happens.

25 These are dynamics, they are unique. We

1 are going to have lots of problem to put it in this  
2 kind of new perspective and that's what I'm complaining  
3 about, we should tackle it right now and say what that  
4 means.

5 MR. HANNA: Q. We both agree on that.

6 A. We agree on that, fine. Madam Chair,  
7 I have difficulty why would you keep 10 per cent of  
8 evenly distributed, evenly distributed stands in order  
9 to maintain the seral composition. The composition of  
10 the -- not decomposition.

11 Q. What do you mean by even distributed?  
12 I don't see those words anywhere, Mr. Marek.

13 A. Doesn't it lead that you have 10 per  
14 cent over the total area.

15 Q. Not at all. No, let's just read the  
16 words here, Mr. Marek, and look again on the second  
17 page, paragraph 2 under point 3, the last sentence.

18 A. Right.

19 Q. It says:

20 "To main a stable supply of the oldest  
21 seral state requires planning to ensure  
22 that sufficient renewal to each mature  
23 FEC type occurs on a constant basis,  
24 particularly if harvesting of the oldest  
25 FEC state is to be practiced."

1                   A. Okay. We try to cut the old stands  
2 first. You are saying that the old stands should be  
3 distributed and represented in the area of management;  
4 right?

5                   Q. That there should be a representation  
6 by FEC type of all age classes and the way that's  
7 achieved is by stating a specific minimum requirement  
8 of the oldest class and, therefore, that ensures there  
9 has to be a renewal of other age classes to maintain  
10 that proportion.

11                  A. I need help here. Honestly, I need  
12 help.

13                  MADAM CHAIR: Don't look at the Board,  
14 Mr. Marek, you have to ask Mr. Hanna.

15                         (laughter)

16                  MR. HANNA: I'm here to help, Mr. Marek.  
17 I will do my best.

18                  THE WITNESS: We should resolve it  
19 because, you know, if hundreds of thousands of people,  
20 Anglers and Hunters membership is represented, we  
21 should definitely grasp this and know what are we  
22 talking about. Let's go to it again.

23                  MR. HANNA: Q. Maybe it would be easier  
24 to talk about a specific example, Mr. Marek.

25                  A. Yes, go ahead, please.



1 Q. Let's talk about a simple forest  
2 management unit that has only two FEC types in it.

3 A. Just a second. Here is your unit.  
4 (indicating)

5 Q. Now, let's just say that right now in  
6 the unit we have, 15 per cent of it -- remember, the  
7 FEC types we are talking about now are the oldest,  
8 mature FEC types.

9 A. Okay.

10 Q. Put two stands that comprise about 15  
11 per cent of the --

12 A. Say 15 per cent of the total.

13 Q. In total they -- put one or each of  
14 those, please?

15 A. One, two.

16 Q. One on both. Those are both FEC type  
17 one. Now you can put another set of circles there.

18 A. May I step on this holy ground here?

19 (laughter)

20 Q. Let's just deal with the one. That's  
21 even easier. We will just deal with the one FEC type.

22 A. You want one now?

23 Q. The whole unit is one FEC type.

24 Leave it exactly where you have it.

25 A. Representative 15 per cent equal one,

1 two.

2 Q. Equals one, FEC type one.

3 A. Okay.

4 Q. Now, that FEC type one will not stay  
5 there in perpetuity; will it?

6 A. No.

7 Q. It will change?

8 A. Yes.

9 Q. It will decay, do whatever, and renew  
10 itself if you don't harvest the wood?

11 A. That is non-harvestable wood; in  
12 other words, perpetuated by nature --

13 Q. No, let's just take this one at a  
14 time.

15 A. Oh.

16 Q. Now, we have a demand for wood which  
17 equals six per cent of the area.

18 A. Okay. Here I take six per cent off.

19 Q. No, just six per cent of the area  
20 first.

21 A. It's what I'm trying to do.

22 Q. I haven't told you the area yet, I am  
23 just telling you how much --

24 A. Oh. Six per cent of the total?

25 Q. Yes.

1 MS. CRONK: I'm sorry to interrupt, Madam  
2 Chair, but we are having a little difficulty seeing  
3 what is being done up there. If it doesn't interfere  
4 with the sight line of the Board, could I ask Mr. Marek  
5 to move the flip chart --

6 MADAM CHAIR: Ms. Cronk, this is our  
7 break time.

8 Mr. Hanna and Mr. Marek, do you want to  
9 work together to present a diagram so that when we come  
10 back in 20 minutes we would have in front of us  
11 something you would both understand as being the  
12 diagram.

13 MR. HANNA: Madam Chair, what I would ask  
14 is that you solicit that with the other counsel in the  
15 room. The reason being, it's not perfectly clear to me  
16 whether I'm in opposition or in, how should I say, in  
17 favour of the position of FFT, and if that is the case,  
18 then we are seen as parties basically with the same  
19 interest.

20 MR. MARTEL: I don't think people  
21 understand what you are trying to get at.

22 MADAM CHAIR: We are asking you to do  
23 this to explain to the Board your 10 per cent --

24 MR. HANNA: I understand clearly what the  
25 Board is asking, Madam Chair. I just don't want to get

1 in a situation I have been in before of, how should I  
2 say, improper communication, and I just want to make  
3 sure the other counsel don't have a problem with it.

4 MADAM CHAIR: Do any counsel object if we  
5 get a diagram in front of us during the break?

6 MS. CRONK: Absolutely not. I don't even  
7 understand. Absolutely not.

8 MADAM CHAIR: Fine. Thank you. We will  
9 be back in 20 minutes then.

10 ---Recess taken at 10:30 a.m.

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1 ---On resuming at 10:55 a.m.

2 MADAM CHAIR: Please be seated.

3 Mr. Hanna?

4 MR. HANNA: Thank you, Madam Chair.

5 Q. Mr. Marek, over the break there we  
6 had a discussion about term and condition 3 in Exhibit  
7 1284. I believe you now have a better understanding of  
8 the intent of that term and condition; correct?

9 A. Right.

10 Q. Perhaps I'm going to suggest to you  
11 how it might be interpreted to ensure that that's the  
12 way that you have interpreted it? When we look at  
13 that--

14 A. I hope.

15 Q. --at the drawing.

16 MR. HANNA: Perhaps, Madam Chair, I don't  
17 know whether to give that an exhibit or not. It's  
18 going to be difficult to follow the record without it,  
19 but I'm not exactly proud of it as an exhibit either.

20 MADAM CHAIR: We've had worse efforts put  
21 in.

22 MR. HANNA: All right. Well, perhaps we  
23 can...

24 MADAM CHAIR: Why don't we call this -- I  
25 think that's a fine exhibit, Mr. Marek.

1 MR. MARTEL: Was that complement?

2 MADAM CHAIR: Yes. Exhibit 1533 will be  
3 a hand drawing of...?

4 MS. SWENARCHUK: Of what?

5 MADAM CHAIR: Of an explanation of OFAH's  
6 draft term and condition 3.

7 MS. SWENARCHUK: 1533, Mr. Hanna.

8 ---EXHIBIT NO. 1533: Hand-drawn diagram depicting  
9 explanation of OFAH term  
and condition No. 3.

10 MR. HANNA: Q. All right. Mr. Marek,  
11 can we look at Exhibit 1533.

12 A. Yes, I look at it. I look at it.

13 Q. Oh, I'm sorry. And the large circle  
14 that we have on the outside there we are calling the  
15 forest management unit; correct?

16 A. Yeah.

17 Q. Perhaps you can just put an arrow  
18 just saying FMU boundary, please?

19 A. I need something to write with.

20 Q. Right in front of your book there.

21 A. Oh here. I'm sorry.

22 Q. Perhaps Mr. Huff can help you and you  
23 can concentrate on the questions.

24 Okay. So that's the forest management  
25 unit boundary, and in this hypothetical forest

1 management unit we have only one FEC type, correct;  
2 that's your understanding?

3 A. Would you come again, please.

4 Q. Yes. In the forest management unit  
5 in this hypothetical example we're assuming there's  
6 only one FEC type both in terms of the mature state and  
7 the seral stages?

8 A. This is a seral.

9 Q. That's the mature seral stage?

10 A. Seral state.

11 Q. Shown with one; correct?

12 A. Put down seral stages, seral stages.

13 Q. Why don't we put mature seral stages.

14 A. Okay, mature seral stages.

15 Q. Now, I have suggested to you that the  
16 mature seral stage that's shown there, that one unit,  
17 comprises 15 per cent of the total forest management  
18 unit area; correct?

19 Now, in terms of looking at -- well,  
20 let's put one more item in there so we understand this  
21 and that is, the 6 per cent comprises the total area  
22 required to be cut in the forest management unit in the  
23 five-year term of the plan; correct?

24 A. Right.

25 Q. Now, looking at term and condition 3

1 of Exhibit 1284, it indicates that we must maintain a  
2 minimum of 10 per cent in that mature seral state;  
3 correct?

4 A. Yeah, that's right.

5 Q. So that in order to achieve our 6  
6 per cent harvest, we cannot use the oldest first rule  
7 as our sole basis because we would overcut, according  
8 to that term and condition, we'd end up with only 9 per  
9 cent of mature seral stage remaining; correct?

10 A. Where did you get that 9 per cent  
11 number?

12 Q. Okay. 15 per cent minus 6 per cent.

13 A. 15, 6 and there is no nine here, so I  
14 would like to know --

15 Q. 15 per cent minus 6 per cent.

16 A. Minus 6 per cent.

17 Q. Gives us 9 per cent?

18 A. 9 per cent.

19 Q. So if we took that 6 per cent out of  
20 the 15 per cent, we would only have 9 per cent  
21 remaining in the mature seral state.

22 A. That's here.

23 Q. Right.

24 A. Because you took that off.

25 Q. And so the most we can take out of



1       there, according to this term and condition, would be 5  
2       per cent; correct?

3                     A. That's right.

4                     Q. Okay. And we would have to get the  
5       remaining 1 per cent from one of the lower age-classes;  
6       correct?

7                     A. Someplace.

8                     Q. Someplace else?

9                     A. (nodding affirmatively)

10                    Q. Now, the next five-year term of the  
11       plan we come back and look at the forest management  
12       unit and we now have another area in FEC 1; correct?

13                    A. Right here.

14                    Q. Which is again the mature seral  
15       state, and the reason that has occurred, over that five  
16       years that stand has moved from one age-class to  
17       another?

18                    A. Right.

19                    Q. You understand that?

20                    A. Yes.

21                    Q. And at this point now, if we had the  
22       same 6 per cent harvest requirement, we could take that  
23       6 per cent from the 10 per cent remaining from the  
24       original area; correct?

25                    A. In other words, from here.

1 Q. We could take that 6 per cent out of  
2 there, or we could take part of the 6 per cent out of  
3 there also; correct?

4 A. That's right, over here. So you  
5 replace it from there to here.

6 Q. Right. And you understand that this  
7 term and condition then allows for a migration across  
8 the forest management unit in terms of the forest in  
9 terms of seral states?

10 A. Yeah.

11 Q. Okay. I just want to make sure we  
12 have a firm understanding, and then I'll get your  
13 opinion on it. Now, does that reflect your  
14 understanding of what is described in term and  
15 condition No. 3?

16 A. Could I repeat it here, what you are  
17 doing, you are replacing from here to over here in  
18 order to get the balance of your seral stages.

19 Q. Right, and to maintain--

20 A. And to maintain.

21 Q. --a diversity of forest types.

22 A. Throughout the forest.

23 Q. Throughout the forested area.

24 A. Okay. Well, I haven't got trouble  
25 with that, sir.

1 Q. Okay.

2 MR. MARTEL: Can I ask a question, I  
3 almost hate to do this. When you started out you had  
4 15 per cent; was that all in one area - right there,  
5 right here - did that represent the whole area, or are  
6 you including the other two? And the reason I'm asking  
7 that is because if you use up 6 per cent of that,  
8 you're down to 9.

9 THE WITNESS: Nine.

10 MR. MARTEL: But it ages as well as the  
11 stuff -- you're counting on this one aging and getting  
12 into the same age-class, but the 9 per cent of that is  
13 also putting five more years on, it's no longer the  
14 same age-class, unless the three places that you have  
15 got circles around you consider those three areas of  
16 the same age, you take 9 per cent from the top one, or  
17 6 per cent, it leaves 9, that 9 per cent adds five  
18 years as you go along.. This down here might advance  
19 five more years, but how can you simply say: Well, I  
20 am going to add this to that?

21 MR. HANNA: Mr. Martel, before the  
22 witness answers --

23 MR. MARTEL: I'm asking you because I  
24 can't understand.

25 MR. HANNA: Well, I can't answer

1       unfortunately.

2                   MR. MARTEL: No, but it's your  
3       hypothetical.

4                   MR. HANNA: But I'll get it through the  
5       witness if you will just give me a moment. Before I  
6       do, I just want to make sure I understand your point,  
7       and that is, are you suggesting to me then that the  
8       original one at the top--

9                   MR. MARTEL: Yes.

10                  MR. HANNA: --as a result of those five  
11       years might degrade and regenerate?

12                  MR. MARTEL: Could do anything, but the  
13       point is, it gets five years older. And all I'm saying  
14       is, the stuff down at the bottom, although it gets five  
15       years older as well, it's not in the same age-class as  
16       the top 9 per cent.

17                  MR. HANNA: Q. Mr. Marek, in dealing  
18       with age-classes, is it typical to deal with  
19       age-classes in terms of, say, zero to 10 years, 11 to  
20       20 years, 21 to 40 years? Is that the way you would  
21       normally describe age-classes?

22                  A. 1 to 20, 20 to 40.

23                  Q. I'm not concerned about exactly what  
24       breakdown but that --

25                  A. Yeah, distribution of age-classes.



1 Q. So they span a certain period of  
2 time, and as long as the stand is within that age-class  
3 it's considered part of that group?

4 A. Yes.

5 Q. So you could have within an age --

6 MADAM CHAIR: Go ahead, Mr. Hanna.

7 MR. HANNA: Q. So you could have within  
8 an age-class a stand, if our age-class was 21 to 40  
9 years, we could have within that age-class a stand that  
10 was 21 years old and we could have a stand within that  
11 age-class that was 40 years old. That would still be  
12 within the same age-class; correct?

13 A. That's right, 20 to 40.

14 Q. Right. And so as stands mature they  
15 jump in steps from one age-class to the next?

16 A. Mm-hmm.

17 Q. So looking now again at Exhibit 1533,  
18 if that is a five-year interval between the first time  
19 we looked at the forest management unit and the second  
20 time that we looked at the forest management unit, you  
21 are suggesting that the bottom circle with the one in  
22 it has jumped from the one seral stage to the mature  
23 seral stage over that period of time; correct?

24 A. Yeah. This is, again, as Mr. Martel  
25 pointed out, that we are adding here five years in

1 order to get this 10 per cent. You are talking about  
2 10 per cent.

3 Q. Right.

4 A. This is a very important factor, he  
5 talks about 10 per cent of the total area. And it  
6 seems to me what he's talking about that when this  
7 area, which is probably more - what is it - he says 15  
8 per cent total area this patch here.

9 Q. And that was in the first year, the  
10 first period of our timber management plan; correct?

11 A. Yeah.

12 Q. And all we had in the total forest  
13 management unit was that one area which comprised 15  
14 per cent of the total area?

15 A. Mm-hmm.

16 Q. Correct?

17 A. Yeah.

18 Q. Now, the second timber management  
19 plan we have expanded the area because there has been  
20 growth in the stands and we had some stands that were  
21 just at the boundary between the mature seral stage and  
22 the next stage below and, as a result of those five  
23 years, it's moved into the mature seral stage; correct?  
24 And that's how we got the bottom one on the picture;  
25 correct?

1 A. Yeah. But...

2 MADAM CHAIR: I think Mr. Martel's  
3 comment was simply, Mr. Hanna, that you've already  
4 identified the 15 per cent as being at least 120 years  
5 or older, and that the bottom one in this hypothetical  
6 might be 115 or 110 years, and it moves up to replace,  
7 once it hits 120 years you don't care how old it is  
8 after that.

9 MR. HANNA: That's the age-class.

10 MADAM CHAIR: Yes.

11 MR. HANNA: The age-class is 120 plus.

12 MADAM CHAIR: It doesn't matter how much  
13 older it gets once it's in the 120 years.

14 MR. HANNA: Right.

15 Q. And that's the way you would normally  
16 define age-classes; is it not, Mr. Marek?

17 A. Mm-hmm, it's age-class distribution  
18 or ages of the stand.

19 Q. Okay. Now, can we move to term and  
20 condition 4 and term and condition 4 says:

21 "If the minimum area in the oldest seral  
22 state does not currently exist..."

23 So in the hypothetical, if instead of  
24 that being 15 per cent it was 6 per cent.

25 A. You go down here and get...

1 Q. We have to harvest somewhere else  
2 other than that mature seral state; correct?

3 A. Okay. That's here, according to you,  
4 right, so you go down, go anyplace here...

5 Q. That's undefined; in other words,  
6 it's simply you cannot take away from that stock of  
7 mature state, mature stands that you have until you've  
8 reached the 10 per cent limit?

9 A. So if this is not available here, you  
10 just say, don't cut it.

11 Q. Or you have to cut younger stands?

12 A. The seral stage, as you would  
13 require.

14 Q. Yes.

15 MADAM CHAIR: Or you set aside 10 per  
16 cent of the older stands in the FMU.

17 MR. HANNA: Yes, Madam Chair.

18 MADAM CHAIR: Even if it's only 20 years?

19 MR. HANNA: No.

20 MADAM CHAIR: Well, how are you going to  
21 get an old stand then? When you start an FMU where you  
22 don't have any old forest, then you would set aside  
23 starting day one 10 per cent of the oldest one that  
24 existed.

25 MR. HANNA: Q. Mr. Marek, continuing on



1 in the term and condition, it says:

2 "All timber management disturbances,  
3 except protection activities, of all  
4 stands in the oldest seral state of all  
5 such FECs shall be prohibited until at  
6 least the minimum required area is  
7 achieved."

8 So if we have the example that Madam  
9 Chair raised where you had a forest management unit  
10 with your oldest stand being say 40 to 60, that would  
11 say that you can't harvest those stands and you would  
12 have to harvest even below that until you've got your  
13 10 per cent.

14 A. But you don't -- if I understand  
15 seral stage, you don't get the same condition you are  
16 after, sir.

17 Q. Okay. And why is that, because of  
18 the changes that occur as a result of harvesting and  
19 the type of things --

20 A. Exactly. This is one of the problem  
21 I am concerned with, that we are talking about  
22 condition, we are changing all the time and when you  
23 look for certain condition in these kind of types you  
24 don't get it over there in the younger stands.

25 Q. But isn't what you're saying, Mr.

1 Marek, that it's imperative that we look at what the  
2 implications of timber management is in terms of  
3 successional state of the forest and that we design our  
4 forest management in such a way that we maintain a  
5 healthy forest ecosystem. Isn't that the whole thesis  
6 of your evidence?

7 A. That's right, but that's cliché.

8 Q. Pardon me, sorry?

9 A. Cliché, cliché. Cliché means that I  
10 am looking for answer here or fulfillment of our --  
11 implementation of your 10 per cent where it is not  
12 available, and if you go in the younger stands you fail  
13 the whole purpose of the exercise.

14 Madam Chair, I don't know how you can ask  
15 this, but that's why I have a problem with this, that  
16 when you start replacing - and I discuss it with you  
17 during the break there - that if you start replacing  
18 and these stands are available at that "stage", repeat  
19 again, that you will not get that condition you are  
20 looking for, sir.

21 Q. But what you are saying to me is --  
22 see, this is the concern I have, Mr. Marek, is we are  
23 dealing with a different premises in what we are  
24 saying. You're saying that if we practice forest  
25 management we won't necessarily achieve our replacement

1 of the forest according to what we are expecting?

2 A. We don't achieve, sir, the seral  
3 stage and that to me is very important. If I have an  
4 intimate know-how of my forest unit and asking for  
5 addition of this stage of condition and know the  
6 dynamics of the stands and forest floor and floristic  
7 identification, then I have to be very careful because  
8 I go and objective is to perpetuate this stage,  
9 original, and if I don't have it, then you telling me  
10 wait til the mature age-classes get to that stage, and  
11 that I think the reasonable explanation.

12 But what you going to do with your goal  
13 if you haven't got it there; you going to go way over  
14 here to get this 10 per cent?

15 Q. Mr. Marek, can we look at the second  
16 part of term and condition No. 4.

17 A. Second part of condition No. 4:

18 "If the 10 per cent minimum area...", is  
19 that it?

20 Q. Yes. And the second part of it says:

21 "In the case where that is not  
22 available..."

23 A. That's right.

24 Q. "...all timber management  
25 disturbances, except protection

1 activities..."

2 A. Yeah.

3 Q. "...of all stands in the oldest seral  
4 state..."

5 It may not be the mature seral state, but  
6 it's the oldest seral state you have in your forest  
7 management unit.

8 A. Exactly, you compromise your goals  
9 because you go in the stages or the seral stage which  
10 cannot be the same as you suggested is your target or  
11 is your proposal or is your wish to have.

12 Elaborate please on it, because I am  
13 going to -- this is a great puzzle and I wish we  
14 resolve it one way or the other, because as a forest  
15 manager - excuse me, sir - the forest manager obviously  
16 going to try and look for these complexity of age-class  
17 distribution because in even-age -- say, even-aged  
18 management you should have so many and so many of these  
19 age-classes evenly distributed.

20 But you are talking the problem if we  
21 don't have, and that's happened very frequently, that  
22 in the boreal forest you have one age-class here,  
23 apparently half of it is 20 to 40. Now, if you don't  
24 get this 10 per cent here, you are going to say no  
25 cutting in that total area; is that right?



1 Q. No.

2 A. No. Okay, please explain that.

3 Q. Well, we'll look at term and

4 condition No. 4, the second part, it says:

5 "Timber management disturbances except  
6 protection activities of all stands in  
7 the oldest seral state..."

8 "...the oldest seral state that exists on  
9 the forest management unit at that time  
10 shall be prohibited until at least the  
11 minimum required area is achieved."

12 It doesn't say there's no cutting, it  
13 says that those oldest stands--

14 A. Will replace the one you --

15 Q. --will allow those to mature so that  
16 we can go as quickly as possible to having an even  
17 distribution of age-classes.

18 A. Okay. So you are still talking that  
19 after you run out of this you going to wait til it  
20 reach such a stage and then you have your -- you will  
21 have then the condition, the seral stage you require.

22 Q. Yes.

23 A. Okay.

24 MADAM CHAIR: But we've heard evidence  
25 from Mr. Marek, Mr. Hanna, that he would have trouble

1 putting all his eggs in one basket; in that sense, if  
2 you set aside 10 per cent and waited for it to age,  
3 over time it might be eaten by insects, it might burn,  
4 something might happen to it, and even if you waited  
5 all that time for the 10 per cent, it might be gone 40  
6 years later.

7 THE WITNESS: Anyway he persist. Madam  
8 Chair, the way I understand him is very clear, he is  
9 after natural -- that he doesn't care what's happened  
10 there, he just leave it there because Mr. Hanna feel  
11 that he reached that goal by having these condition  
12 there.

13 MADAM CHAIR: Well, let's assume Mr.  
14 Hanna has a very good objective and that is for all  
15 kinds of reasons having to do with habitat.

16 THE WITNESS: Right.

17 MADAM CHAIR: He wants a certain amount  
18 of old forest. Now, if you were the forester back in  
19 Beardmore what would you do to give him, over time in a  
20 plan, protection of some area of old forest, and if he  
21 were to say to you, I want 10 per cent and you've got  
22 to do that for me.

23 THE WITNESS: Madam Chair, what I will  
24 look is that I fulfill the goals what Mr. Hanna is  
25 after. If I have a seral stage in this area

1 represented in the overmature stands and he feels it's  
2 just like nucleus of seeding over the area; in other  
3 words, plenty of second growth which is represented in  
4 that thing, I will -- as he point out, I will look for  
5 next age-class, and if that age-class is not there then  
6 I will say: Okay, there is perhaps next one - this is  
7 180 and say this is 140 or 100 - and I look at this  
8 condition of the seral stage there and I says: Okay,  
9 is that comparable to this one.

10 And I am going to get him and say: Look,  
11 does it satisfy your objective this 10 per cent when  
12 you take it off here. And if it is, and as a forester  
13 we have identification or FEC we can look at, is that  
14 identical with floristic composition then, and matter  
15 of fact it's not only floristics, it's the total stand  
16 condition what he's talking about, he's talking about  
17 real ecosystem which he likes to preserve.

18 I would say: Okay, I have a patch over  
19 here, is that fine with you, does it represent 10 per  
20 cent, which sometimes you can't because you are talking  
21 about large area here, and if that 10 per cent is there  
22 and the area is fragmented, so I would say: Does that  
23 satisfy you, fine. If he says no, then obviously he  
24 going to say, let's look beyond the boundary.

25 MADAM CHAIR: Beyond the FMU.

1 THE WITNESS: Is that correct, sir?

2 MR. HANNA: Q. Timber management  
3 planning in this province, as I understand, Mr. Marek,  
4 is restricted to the forest management unit, so that  
5 would not be possible.

6 A. No, no -- oh, the forest management  
7 unit is thousands and thousands of hectares.

8 Q. Correct.

9 A. There are all kind of conditions as  
10 we all know in this it's variable, but that's way I  
11 understand you. Now, if there is something else to  
12 understand, try on me again. Is that...

13 Q. It was Madam Chair's question. I am  
14 satisfied, but I'm happy to -- if that answers her  
15 question, I suppose.

16 THE WITNESS: Does that answer it?

17 MADAM CHAIR: Well, I just want to make  
18 it clear. Do you agree that as a forester you can  
19 actually do what it says in this condition?

20 THE WITNESS: That has to be tested,  
21 Madam. You know, I know certain area very, very well  
22 and I see in some areas of different age-class  
23 distribution and in totality, you know, forest itself  
24 as I know it, and I am very interested in this concept,  
25 you know, go by this kind of identity we call seral,



1 because there were books written, I didn't read them  
2 last night, but I read them many years back, the seral  
3 stages, but to implement it is going to be task by  
4 itself. Can we accommodate these kind of demand on the  
5 FMU, or on forest management unit which will supply  
6 these answers. I cannot say, it should be tested.

7 MADAM CHAIR: And so you are saying we  
8 don't know.

9 THE WITNESS: No, I don't.

10 MADAM CHAIR: We don't know if we can do  
11 it?

12 THE WITNESS: No.

13 MADAM CHAIR: And you would put the same  
14 risks against being able to do that as you would with  
15 many aspects of second growth or many aspects of the  
16 future that you discussed over the last five days?

17 THE WITNESS: Right.

18 MR. HANNA: Q. I want to make sure I  
19 understand what you mean by the same risks there, Mr.  
20 Marek. What do you mean by the same risks?

21 I understood when you talked about risks  
22 to be talking about, if you deviate dramatically from  
23 the natural situation you don't know where you're going  
24 and, therefore, there's a high risk.

25 I see that as an entirely different type

1 of risk as opposed to what we're talking about here,  
2 which is in fact a replication of the natural system  
3 and a way simply to try and put that in operational  
4 terms.

5 Those seem like two dramatically  
6 different risks to me. Am I missing something?

7 A. Well, may I point to you that what  
8 you are after, your objective here is biodiversity or  
9 maintenance of biodiversity, and maintenance of  
10 biodiversity calls for maintenance of the total  
11 ecosystem. Do I express this clear?

12 MADAM CHAIR: Yes.

13 THE WITNESS: So you try to protect  
14 certain ecosystem for perpetuating by maintaining this  
15 10 per cent throughout the unit, right?

16 MR. HANNA: Q. Correct.

17 A. Well...

18 Q. And to maintain that 10 per cent  
19 implies that you have to maintain all the succeeding or  
20 underlying successional states to be able to ensure  
21 that 10 per cent in perpetuity, for the very reasons  
22 that you have given us, that the forest is a dynamic  
23 ecosystem.

24 A. That's right.

25 MADAM CHAIR: Well, excuse me. My only

1 issue about the risk, Mr. Hanna, is we have seen many  
2 slides that Mr. Marek has presented and his message has  
3 been over and over again, no matter how well we plan,  
4 and it's better in most cases to regenerate naturally  
5 and to try to replace what was there, nature surprises  
6 us and there's nothing we can guarantee will stay as it  
7 is forever.

8 MR. HANNA: I understand that, Madam  
9 Chair, and the reason I asked the question to the  
10 witness was, my understanding is there's two types of  
11 risks, one risk is if we deviate dramatically from the  
12 natural state there's a high risk because we don't know  
13 where we are going; there's another type of risk which  
14 says the forest is a dynamic ecosystem, things will  
15 change irrespective of what we do and we have to  
16 account for that, but there are ways to account for  
17 that, and this is an operational way to try and - how  
18 should I say - put in terms that are meaningful to a  
19 forester what biodiversity means.

20 Q. Maybe, Mr. Marek, what I'm interested  
21 in knowing is, have you got an alternate proposal to  
22 define what you mean by biodiversity, forest ecosystem  
23 stability in operational terms that can be used in this  
24 province today?

25 A. Okay. That was a subject I was

1 dealing last night, because I know it's coming to this,  
2 and my prescription or my idea of maintaining  
3 biodiversity is somewhat different from yours, and I  
4 tell you why, because I think it's more important to  
5 maintain the successional stages, and we were talking  
6 about changing throughout the whole forest management  
7 unit which undergo after disturbance, maybe natural  
8 disturbance, maybe cutting disturbance, and let's deal  
9 with cutting disturbance, that it impacts on the site  
10 and by impacting on the site we impacting on  
11 biodiversity, agreed?

12 Q. No.

13 A. No.

14 Q. And the reason I don't agree is this;  
15 and, that is, you say maintain successional states.  
16 And I ask you, what in this proposal that I put before  
17 you does not maintain successional states; in fact, is  
18 that not the very essence, the cornerstone of the whole  
19 proposal I put forward to you?

20 A. It doesn't satisfy me because I  
21 believe that you have to have a disturbance in order to  
22 maintain the biodiversity.

23 Q. And what isn't there in this term and  
24 condition, point to me any one of the five terms and  
25 conditions you have before you that says there is no



1 disturbance and no disturbance will be permitted?

2 A. Here, you are not allowing  
3 disturbance here, so how can you...

4 Q. You have, we've cut that, Mr. Marek.

5 A. Eh?

6 Q. We've cut that stand, that stand has  
7 been harvested in the second term of the plan.

8 A. Well, that's news to me, because I  
9 thought you were going to protect the original  
10 ecosystem here.

11 Q. We are going to what, sorry?

12 A. We are going to protect the original  
13 ecosystem here. That was my understanding.

14 Q. Okay. Well, maybe we have a  
15 misunderstanding.

16 A. Are you telling me --

17 Q. Let me just try again.

18 A. Go ahead. Go ahead.

19 Q. We have there 15 per cent in that  
20 unit.

21 A. Yeah.

22 Q. We harvested 5 per cent of it and  
23 maintained 10 per cent.

24 A. Here?

25 Q. Yes.

1 A. Right.

2 Q. The second time around we had a  
3 second unit that came into that mature seral state  
4 which is shown at the bottom of the diagram.

5 A. Here?

6 Q. Yes.

7 A. That's maintained itself, uncut.

8 Q. Well, we're now in the second term.  
9 The second term of the plan we now have the option to  
10 go in and harvest the first unit that we preserved in  
11 the first go around.

12 A. Here.

13 Q. So that area can be disturbed now.  
14 Yes.

15 A. Okay.

16 Q. Now, tell me what is suggesting there  
17 that those areas cannot be disturbed?

18 A. No, it seems to me we are talking in  
19 circles here. I thought you going to maintain the  
20 diversity purposely undisturbed.

21 Q. There is no suggestion, and I ask you  
22 to show me in these terms and conditions where the  
23 suggestion that there was no disturbance.

24 And that's the whole point that I made to  
25 you, that the areas within the 10 per cent could

1 migrate throughout the forest management unit as long  
2 as you maintained that oldest seral state somewhere in  
3 the unit.

4 A. Oldest seral state somewhere in the  
5 unit.

6 Q. Correct.

7 A. Then we have a big deal of discussion  
8 to make on what biodiversity means.

9 MADAM CHAIR: Excuse me, Mr. Marek.  
10 Would that mean, Mr. Hanna, then that usually your old  
11 stands wouldn't be any older than 120 years? Because  
12 the first year that replacement stand became eligible  
13 would be 120 years, so you would keep replacing it at  
14 the minimum --

15 MR. HANNA: Not at all, Madam Chair, it  
16 may well be the decision that you have a remote stand  
17 that will be your 10 per cent and that's there for --

18 MR. MARTEL: What page.

19 MADAM CHAIR: Well, that's what Mr. Marek  
20 thought you meant originally.

21 MR. HANNA: As long as it's in that 120  
22 plus year class, 120 plus year class is 120 plus, and  
23 it has the characteristics associated with that FEC.

24 Q. And the FEC is very specific; is it  
25 not, Mr. Marek, in terms of what constitutes--

1 A. Oh I agree.

2 Q. In terms of floristics and all the  
3 other things, and so that if --

4 A. No problem. Only what bothers me,  
5 sir, that in moment you going to start cutting down the  
6 so-called original ecosystem, that somewhere here you  
7 are looking other duplication of it, prior cutting,  
8 right?

9 Q. Yes.

10 A. So are you going to maintain this 10  
11 per cent right through the cutting in that area.

12 Q. It's going to migrate across.

13 A. It's going to migrate, but eventually  
14 say this going to be cut, and you are saying, no, you  
15 have to maintain this 10 per cent and not to cut it.  
16 And so you are creating condition which I have -- no, I  
17 think there will be argument in end.

18 It's interesting to discuss it, but we  
19 still don't know, and it is your role to defend this  
20 and explain us what you mean, and I ask the question of  
21 the Board, are we clear what we are talking about?

22 MADAM CHAIR: Well --

23 MS. SWENARCHUK: Madam Chair, might I  
24 make a suggestion?

25 MADAM CHAIR: Ms. Swenarchuk?



1 MS. SWENARCHUK: Perhaps what is  
2 happening here, has been happening for about an hour  
3 now, to use Mr. Huff's terms here, we have ships  
4 passing in the night, dealing with different  
5 definitions and semantics and perhaps we're speaking  
6 somewhat different languages on the issue.

7 Clearly the issue is very complex and  
8 perhaps what could be most helpful for the Board  
9 ultimately would be if Mr. Hanna were able to produce a  
10 witness who could explain in some detail exactly what  
11 his proposals would entail.

12 MR. HANNA: I have every intention of  
13 doing that, as I have indicated to the Board in the  
14 past. The only reason I'm doing this with Mr. Marek,  
15 is I hoped to gain the benefit of his opinion, as I  
16 have from the other witnesses who have been before the  
17 Board.

18 I think we've probably come to a  
19 standstill on this and I'm not sure there's any use--

20 THE WITNESS: Madam Chair, we are  
21 talking about semantics here and if you don't agree on  
22 that, how can we talk forestry, right.

23 MADAM CHAIR: That's right, Mr. Marek. I  
24 think with respect to this specific proposal we can  
25 leave that aside, but if there's something more general

1       that you wanted to ask Mr. Marek with respect to his  
2       views of maintaining biodiversity, which might be  
3       somewhat different than yours, then go ahead.

4                   MR. HANNA: Yes, I'm planning to do that.

5                   Q. Mr. Marek, can I just look at term  
6       and condition No. 5 which deals with a somewhat  
7       different matter, although similar, and it says:

8                   "All forecasts of production  
9                   possibilities...", that being the  
10       alternative silvicultural strategies that we could  
11       apply in a forest management unit:

12                   "All forecasts of production  
13                   possibilities for forest management units  
14                   shall include a summary by FEC seral  
15                   stage and area for the planning horizon  
16                   of the forecast."

17                   Would you agree with that, that basically  
18       what that's requiring is that the forester say, here's  
19       what you can anticipate public over time in terms of  
20       the forest ecosystems, their types, their seral states,  
21       and the total area within the forest management over  
22       time with this silvicultural prescription or that  
23       silvicultural prescription. Do you see that as a  
24       valuable exercise?

25                   A. Oh, I think this makes common sense,

1 that the perpetuation of the ecosystem by itself with  
2 the help of disturbances we are trying or we should be  
3 trying the biodiversity but, again, we are talking  
4 about natural disturbances, we are talking about  
5 certain things which bring the sites back and duplicate  
6 itself.

7 In other words, No. 1, the normal  
8 execution of practices which going to bring back what  
9 we had before, you understand that, because  
10 biodiversity, maintenance of biodiversity mean that we  
11 are going to get back fairly well what we have got  
12 here. This is my objective as a forester, I like to  
13 get back what I had, minimum.

14 When you get, of course, intensified  
15 management, when you get into say management identified  
16 with agriculture approach then, of course, we might as  
17 well forget about it and start talking about other  
18 culture ecosystem which may or may not perpetuate the  
19 biodiversity of the original stand.

20 Q. So, Mr. Marek, can we leave it at  
21 this then, if it can be shown to the Board by other  
22 witnesses or whatever that the implementation of these  
23 terms and conditions would lead to the perpetuation of  
24 that biodiversity as you have described, you would be  
25 in support of that?

1                   A. If that would help to maintain the  
2           biodiversity of the, or duplication of the ecosystem we  
3           had there before, and that sometimes is not goal of  
4           timber management, please realize that, the  
5           manipulation of these systems is different, yes, I  
6           agree with that, let's keep the biodiversity what we  
7           had and that is minimum what we can ask.

8                   Q. Can we turn now to the  
9           interrogatories again, Question 19. Looking at Exhibit  
10          1531, Question 19 I believe is on page 12 continuing  
11          over to page 13.

12                   And this particular quote is from the  
13          -witness statement where you said that:

14                   "Planting by itself is a useless measure  
15                  of management quality."

16                   You recall that?

17                   A. Yeah, that's right.

18                   Q. Okay. And a series of questions were  
19          put to you asking what measures you would use to  
20          determine management quality and particularly  
21          performance that could be used on an ongoing monitoring  
22          basis that would be meaningful to the public in terms  
23          of ensuring that management performance was up to par?

24                   A. Right. If the goals and objectives  
25          are clear enough to the public and clear to the



1 foresters or managers first place, the goals and  
2 objectives of your management, maintaining  
3 productivity, maintaining something which perhaps gets  
4 into the other aspect of multiples, but if the goals  
5 are expressed that way, my objection to present  
6 monitoring of the different stages of development,  
7 dynamics of this forest are not sufficient, I like to  
8 see the forest manager monitor these condition more  
9 frequently. I am not happy present exercise the  
10 enactment of free to grow, I think that our expectation  
11 as expressed in the timber management planning are not  
12 not realistic and I like to see, as I said here before,  
13 I like to see we return to monitor stands on area  
14 according to the biodiversity as shown us in previous  
15 protection; in other words, in virgin forest.

16 Q. How specifically would you go about  
17 determining whether one has a healthy forest ecosystem  
18 at various stages of succession following harvesting?

19 A. Well, you compare it mainly with the  
20 previous stands, I elaborated yesterday on it, there is  
21 many approaches how to monitor the dynamics by visiting  
22 as frequently, see the area grows, see the health of  
23 the trees, testing the forest floor productivity, and  
24 here comes again your wish, to maintain biodiversity  
25 and so...

1 Q. Mr. Marek, but there is two issues;  
2 one is, are the trees that are growing there healthy  
3 now, which is the type of thing you described with the  
4 nature of the vegetation, the colour of the leaves, the  
5 amount of growth, the physical measurement of soil,  
6 those sort of things.

7 A. Right.

8 Q. There is also the issue of where is  
9 that stand going, the successional nature of the  
10 perspective?

11 A. Yeah, mm-hmm.

12 Q. How would you, by going out and  
13 looking at the stand, determine whether or not you are  
14 going where you want to go?

15 A. Well, in timber management in many  
16 country you have a very exact yield table, you know,  
17 tables which are showing dynamics of the growth.

18 Q. But that is merchantable volume only?

19 A. That shows you not only dynamics but  
20 stocking, density and so on. No, no, it's right there,  
21 look at Plonski's yield tables.

22 Q. No, no, I'm very familiar with  
23 Plonski's tables.

24 A. Okay.

25 Q. I understand that.

1 A. Right.

2 Q. My point is that that provides to me  
3 a measure of the productivity in terms of commercial  
4 tree species; it doesn't necessarily tell me - and I  
5 think this is one of the points that you raised in your  
6 evidence - necessarily that that black spruce stand  
7 that's happening now--

8 A. Mm-hmm.

9 Q. --is going to be comparable, from a  
10 biological diversity point of view, to the black spruce  
11 stand I had in the past, even though the yield may be  
12 the same.

13 A. Yeah. Well, no, no, no, just -- I  
14 think that by examining the dynamics you don't look  
15 only on the growth, the height and so on, you look at  
16 the forest floor, I mention it, you have to look at the  
17 successional stages, you have to examine the floristic  
18 showing of your forest humus.

19 Q. So to put that in simple terms what  
20 you're saying is, if we had a kind of model that Dr.  
21 Carelton has put out in the papers that he's described  
22 which says, here are the floristics at different  
23 successional stages--

24 A. Indicators.

25 Q. --that I would anticipate, if this

1 stand is going back towards a FEC 38, and the forester  
2 then could go out and look in the field, look at the  
3 stand and say: Do I see a vegetation community  
4 evolving according to the expected successional  
5 pattern, that would be the type of thing that you would  
6 want to see?

7 A. Should be here.

8 Q. And so that's back to the point of --  
9 that's back to the point of needing to have those seral  
10 states defined for the FECs?

11 A. Yes. In many instances the forester  
12 who depends on this result of this examination on the  
13 ground he can judge, with some experience, with the  
14 help of this what he is aiming for and what,  
15 comparatively speaking, he's getting.

16 Now, this requires quite a bit of  
17 exercise and perhaps new look at the dynamics of the  
18 uncut stands which is represented here and Plonski  
19 yield tables and also the new additional know-how  
20 expressed in this forest ecosystem or in Plonski's  
21 yield dealing with the future of those stands, the  
22 dynamics.

23 Q. Can we turn to Interrogatory No. 25,  
24 please, this is on page 16, and this is dealing with  
25 the statement that you made on page 71 of your report



1 where you say:

2 "The necessary patterns in the forest  
3 should be set through ground rules and  
4 prescriptions in the timber management  
5 plans starting with harvesting methods."

6 A. That's question what, 25?

7 Q. I'm sorry?

8 A. What question number?

9 Q. Question 25.

10 A. 25, yeah.

11 "The necessary patterns in the forest  
12 should be set through ground rules and  
13 prescriptions..", yeah, okay.

14 Q. And the answer that followed is the  
15 last page of Exhibit 1531 at the top of that page.

16 A. It says...?

17 Q. It says -- for the answer to No. 1 it  
18 says:

19 "See the silvicultural prescriptions  
20 filed as a term and condition by Forests  
21 for Tomorrow, Exhibit 1416", which I  
22 believe 1416A is the update of that; correct?

23 A. Yeah.

24 Q. Now, I looked at 1416A and I looked  
25 at the statement in your witness statement in terms of

1 the necessary patterns, and it was not clear to me how  
2 patterns necessarily evolved out of this, you see what  
3 I mean?

4 In other words, 1416A suggests that we  
5 use strip cuts in a modified cutting pattern in terms  
6 of harvesting black spruce stands and some of the other  
7 stands that you discussed.

8 A. Yes.

9 Q. Is it fair to say then that what you  
10 are suggesting is that the pattern that we currently  
11 have is the pattern that we will have in the future; in  
12 other words, all you're really doing is just  
13 maintaining the current pattern, you're not changing  
14 the pattern.

15 A. Changing the pattern, that's right.

16 Q. You are changing the pattern?

17 A. No, no, we should be changing the  
18 pattern, that is my criticism.

19 Q. Changing the pattern of the cuts?

20 A. Of the cuts and perhaps the  
21 additional renewal actions which we do, it changes  
22 somewhat differently than what we are doing.

23 Q. Well, I'm back to your statement and  
24 you say, "the necessary patterns in the forest".

25 A. Mm-hmm.

1 Q. And the patterns in the forest, I'm  
2 now talking about the patterns being stands, the  
3 location and configuration of stands as the patterns.

4 A. Patterns, yeah

5 Q. And we harvest stands?

6 A. Oh, we harvest total forest lands.

7 Come on, we --

8 Q. No no. I understand that.

9 A. Okay.

10 Q. Your proposal is that within the  
11 stand we use modified cuts and basically maintain the  
12 stand boundaries as they are now into the future?

13 MS. SWENARCHUK: Well, Madam Chair, could  
14 we just give the witness a chance to clarify his  
15 position here.

16 Mr. Hanna seems to equate patterns with  
17 stands. Perhaps the appropriate question for Mr. Marek  
18 is whether he makes that equivalence; in other words,  
19 Mr. Marek has said in the witness statement: How does  
20 one create the patterns in the forest which will suit  
21 the diverse demands of timber and wildlife. Mr. Hanna  
22 has taken that to -- has equated that term pattern with  
23 stand. I am not sure that Mr. Marek does.

24 MADAM CHAIR: Mr. Marek, what did you  
25 mean by patterns in the forest?

1                   THE WITNESS: Patterns in the forest  
2 means that you treat the aggregate of the forest  
3 stands, sites, into the larger pattern. Is that the  
4 answer?

5                   In other words, when we talk about  
6 modified cutting I am talking modified cutting in  
7 certain site types or certain biomes or certain  
8 condition of stands itself, then I do modified cutting  
9 or I do clearcutting or whatever it may be, I do seed  
10 tree, as opposed to right in the neighbourhood you may  
11 use different patterns to accommodate the forest to the  
12 new regeneration or to new renewal of the forest.  
13 That's what I mean by pattern.

14                  MR. HANNA: Q. Mr. Marek, can you direct  
15 me in 1416A where direction is provided in terms of  
16 developing patterns that would be suited to the diverse  
17 demands of timber and wildlife?

18                  A. Very much so. I feel -- that's why I  
19 am suggesting small area clearcut management, this is  
20 why I am suggesting the abolition of large area  
21 clearcut or the attempt to reduce the clearcut size.

22                  Q. Mr. Marek, I have to interrupt, I'm  
23 sorry, time is of the essence here and I want to make  
24 sure we get this as usefully as possible. I understand  
25 your thesis for small area clearcuts.



1 A. Right.

2 Q. What I'm interested in is how you  
3 design that pattern on the land. I understand how you  
4 go about it.

5 A. But how I do what?

6 Q. How you design that pattern on the  
7 land.

8 A. How I design?

9 Q. Do you take the current structure of  
10 stands and replicate that current structure of stands  
11 in a geographic sense, or are you looking at  
12 restructuring the pattern to suit diverse demands of  
13 timber and wildlife; and if you are, can you describe  
14 to me, show me where in 1416A that issue is addressed?

15 A. I can repeat again that our forest is  
16 made of hundred different forests on the whole our  
17 land. In other words, to accommodate fish and wildlife  
18 and other forest users; in other words, practise good  
19 multi-purpose forestry, indeed, indeed you have to look  
20 at the individual stand how they impact the other  
21 stands.

22 And the ecosystem the channels are open,  
23 the fluxes go to the ecosystem, in and out, and in  
24 order to make any judgment of quality I have to look at  
25 the total forest land in one way and then on an

1 individual forest sites and forest biomes.

2                   How I design -- if I understand right you  
3 asked me how I design this whole philosophy or design  
4 of my management goals. If my management goals are I  
5 will consider moose and I consider other resources  
6 including timber and go into the optimization - and  
7 that's a term I like to use, the optimization of  
8 products, optimization of products - instead of  
9 maximizing simple production, I like to accommodate  
10 moose or white owl or snow owl and hawks and so,  
11 including beaver, then I have to look at it and say:  
12 Okay, what would serve best, and the usually results  
13 are that I have to compromise in order to achieve  
14 optimization.

15                   And optimization, again I stress, that is  
16 a goal of forest management, then I design certain  
17 practices the best I know who serve that purpose. That  
18 may be in some area strip cutting, in some areas will  
19 be different pattern but, in general term, as best I  
20 know I will try to accommodate the other users. It  
21 will -- agree on that?

22                   Q. Mr. Marek, when I look at Exhibit  
23 1416A I see specific requirements, for example, in  
24 terms of the size of cut-over for the jack pine working  
25 group, the width of clearcuts for strip cuts for black

1 spruce, and I see a definition of shallow soil sites,  
2 but I don't see a definition for many of the general  
3 statements that are set out at the beginning.

4 And I will just give you an example, just  
5 deal with the very first one, which is Section 1.1, sub  
6 1, it says:

7 "Improper/inappropriate harvesting on  
8 shallow soiled sites or sensitive sites  
9 shouldn't be allowed."

10 A. Yeah.

11 Q. Now, I am sure there are people who  
12 would say the Ministry doesn't currently allow improper  
13 or inappropriate harvesting on shallow soiled sites,  
14 and I know you don't agree with that, but the point is:  
15 What would be the objective measure, do you understand  
16 what I mean; in other words, for these general  
17 statements to have enforceability they have to be as  
18 specific and succinct as possible.

19 MS. SWENARCHUK: Madam Chair, in fairness  
20 to the witness, there are further provisions with  
21 regard to harvesting on those sites starting on page 3  
22 and going to page 4, Section 2.2, et cetera, that have  
23 to do with full-tree logging and various types of  
24 assessments to be made with regard to these various  
25 sensitive sites.

1 MR. HANNA: Madam Chair, I hadn't  
2 finished my question. I appreciate Ms. Swenarchuk's  
3 attempt to assist me. I understand that. What I am  
4 getting at, and the question I was going to ask Mr.  
5 Marek is:

6 Q. By the definition that you've used  
7 here in terms of improper, inappropriate, and you have  
8 used those types of words--

9 A. That's right.

10 Q. --through much of that.

11 A. Yeah.

12 Q. Are you suggesting that those are  
13 reflected in the specifics and to the extent that those  
14 specifics are achieved, then the improper and  
15 inappropriate would be addressed?

16 A. I think that's correct. You see, I  
17 have a problem, I got to face you and I have to think  
18 what you say and meantime I have to look up in this  
19 pile of paper here and dig it out. So, Madam Chair,  
20 please do understand my dilemma, I got to think very  
21 hard what he's saying there and I have got to, at the  
22 same time, concentrate my little brain on where that  
23 thing fit.

24 But, no, I think that answering your  
25 question, so I'm going to concentrate strictly what he



1       said. The answer is yes.

2                   MADAM CHAIR: Thank you, Mr. Marek. And  
3 we've had 160 slides presented by Mr. Marek showing  
4 what he considers to be improper or inappropriate  
5 practices and what would be shallow and fragile sites.

6                   MR. HANNA: I understand, Madam Chair,  
7 and I have looked at the slides, and I have read his  
8 witness statement carefully. I am very concerned about  
9 ensuring that the concerns the witness has brought  
10 forward are put in the most specific terms possible and  
11 that's the reason I'm asking the question.

12                  Q. Mr. Marek, in the second part of that  
13 answer to 25 you refer me to the model in the paper  
14 that you wrote in 1983, Appendix 3. I wonder if you  
15 could look at that for a moment, please?

16                  A. Yes, I will. Just a second please,  
17 as long as I can find it.

18                  Q. It's in source book 2, I believe.

19                  A. Source book 2, and it's...?

20                  Q. It's your paper.

21                  A. Yeah. Okay, that's good. Let's go  
22 on the last page after the recommendations. Yes, I got  
23 it here. Let's talk about modeling.

24                  Q. And this refers to your  
25 recommendation No. 7 I believe; is that right?

1 A. Probably. Yeah.

2 Q. Your recommendation No. 7 says:

3 "It is recommended that a computerized  
4 databank be established in each district,  
5 plus a new forest management system  
6 should be developed to go into this  
7 databank and should spell out objectives  
8 for the area's implementation of  
9 silvicultural options, prognosis of  
10 future yields and impact tradeoffs."

11 A. Yes, correct.

12 Q. Now, can you elaborate on  
13 specifically what this consists of?

14 MR. MARTEL: What tab are we at?

15 THE WITNESS: It's source book 2.

16 MADAM CHAIR: Source book 2.

17 THE WITNESS: Right.

18 MADAM CHAIR: Mm-hmm. Which tab?

19 MR. MARTEL: Which tab is this? Is there  
20 a page or a tab?

21 THE WITNESS: Marek, M-a-r, Marek. .

22 MR. MARTEL: Marek.

23 MS. SWENARCHUK: Second page from the end  
24 of the report, Madam Chair.

25 THE WITNESS: Second page from the end.

1 MR. MARTEL: Here we are.

2 MS. SWENARCHUK: Appendix 3.

3 MR. HANNA: Q. Now, can you just briefly  
4 explain what your setting out there for us, Mr. Marek?

5 A. Yes. Madam Chair, after we have  
6 discovered some deficiency in the second growth in the  
7 area of -- vicinity of Lake Nipigon, and here is that  
8 so-called planimetry board which I initiated and was  
9 part of it, we very thoroughly examined the figures,  
10 the graphs and it's obvious there that our forest is  
11 having to situation which we didn't know what to do  
12 with. In meantime we have also experience that demand  
13 for other users will be coming upon us very soon.

14 This is an area north of Town of Nipigon,  
15 area which is used frequently by hunters and fishermen  
16 and berry pickers, so we got our heads together and  
17 say: Well, how we going to start modeling these stands  
18 for the future? It appears here from the model that we  
19 started basically from what we got and that's  
20 identified as forest site status.

21 The status of forest sites - I don't  
22 think I have to explain it - it consists of stand  
23 attributes, and that means site quality, variability.  
24 Quality means nutritional capital and also the  
25 biological status in general; in other words, is that

1 stand actively contributing to the growth of timber.  
2 And as you see, there is connection to fish and  
3 wildlife from the central part of the model. So you  
4 have a site quality and variability.

5 The farther input has to be done in this  
6 model, the stand risks and, as I have shown you, the  
7 risks are visible, you can sometimes measure them,  
8 sometimes you cannot measure them, but obviously risks  
9 are there, let's deal with that issue in the total  
10 modeling of stands, of forest lands here in this case.

11 So the site's quality, variability, the  
12 risk right in the middle and, of course, then you have  
13 the biological aspect of the system which is climatic  
14 relationship and competition. You have to start with  
15 these very elementary things in order to get nucleus of  
16 your model, that is where you start site productivity.

17 There is no point to deal with other  
18 aspects, multi-purpose forestry call it, if you don't  
19 know this. The variability then later on comes in, but  
20 I think that basically you have got to know as much as  
21 possible, as accurately as possible, that you have some  
22 knowledge of these inputs.

23 Now, following the arrows in that model,  
24 you go to the left and you can see compartment of  
25 forest management objectives, and I think you cannot



1 touch, Madam Chair and Mr. Hanna, any decision-making  
2 process or any serious one unless you know this basic  
3 compartment of forest site status.

4 So from there we went to objectives, and  
5 here we are, forest objectives, forest management  
6 objectives - and please note, Mr. Hanna, we are not  
7 talking about timber objectives here, we are talking  
8 forest management objectives, forest land management in  
9 the broad class here - which deals with timber, that's  
10 absolutely necessary because timber is a very important  
11 part of each ecosystem, then you have fish and  
12 wildlife, and lands recreation.

13 So at that time, don't forget this small  
14 area is eight years ago, but even then we were very  
15 much concerned about the area we were managing, putting  
16 plug in these inputs.

17 Now, from there the model goes and from  
18 one side it goes to the stand growth permanent  
19 sampling, which I think give us additional input and  
20 know-how, how the stand of timber itself operates, and  
21 also incorporates the concern of fish and wildlife,  
22 lands recreation, forest management objectives.

23 So let's go back. This condition has to  
24 be continually assessed, there we have between the  
25 nucleus of the model, the assessment, and this

1 assessment deals with assessment of all products of the  
2 ecosystem or in this area.

3 Obviously you have to plug in the  
4 economics, cost, and again the risks in economics  
5 because risks are not only risks of biological or  
6 physical changes on the site, but it also deals with  
7 the economic risk, marketing, price of timber and so  
8 on, demands, so we plug it in and, as you see from  
9 economics and cost/benefit analysis, again the risks  
10 are being considered.

11 Of course then you get implementation,  
12 prescription, which is identified in the model directly  
13 to the nucleus where you're going to say: Okay, in  
14 forest management what we do, for timber management we  
15 do planning, seeding, modified cutting, tending, that's  
16 all, scope of all operation which we usually will do,  
17 and this whole model in the cycle expressed and says:  
18 In the future years this is the output, on the right  
19 side of the model there, future yields.

20 Q. Mr. Marek, those future yields are  
21 yields not only of woods but the other objectives  
22 you've --

23 A. Exactly, because you plug in fish and  
24 wildlife into the model on the left side. So to our --  
25 with Ed Clemmer and myself we were discussing this for

1 hours because we did all this stuff on computers,  
2 assessment and so on, and I was plugging in each unique  
3 approach and I think that at that time Ministry should  
4 have been more sympathetic to this kind of approach,  
5 but they were not, but even now I like to say, Mr.  
6 Hanna, that this is ideal concept we should be dealing  
7 with, plugging in all these possibilities, plugging in  
8 these concerns, plugging in the yields for all  
9 resources, then come up with yields according to the  
10 objectives and goals.

11 Q. So to the best of your knowledge is  
12 it fair to say that this type of model was not  
13 available to unit foresters at the time that you wrote  
14 the report?

15 A. No, no, that was individual effort we  
16 made. We hoped for succeeding but, no, we didn't, it  
17 just...

18 Q. To the best of your knowledge, is it  
19 currently available to unit foresters in the province?

20 A. I don't know how MNR operates really,  
21 because there were obviously some concerns expressed to  
22 plug in and model some of these ecosystems, and  
23 especially now with intensified management it's done  
24 here to monitor it more closely.

25 Now, how do they progress to integrate,

1       integrate the various resources and their performance  
2       and their yields and goals and whatever, I don't know,  
3       I don't know, I haven't got it.

4                   Q.   Mr. Marek, I have one last question  
5       or one last subject I would like to deal with and that  
6       is Interrogatory No. 26 which deals with, again, page  
7       71 of your witness statement, and you talk about the  
8       need for an optimization of the benefits from the  
9       forest, and you've spoken about that on a number of  
10      occasions, and there is a number of questions asked to  
11      you with respect to that statement.

12                   And the last Question No. 4 was:

13                   "How should these benefits be expressed  
14                   and incorporated in the plan?"

15                   And you indicated in the answer:

16                   "Precisely, carefully and qualitatively."

17                   A.   That's right.

18                   Q.   And it was the qualitative part that  
19      I was concerned about.

20                   A.   Mm-hmm.

21                   Q.   The evidence that the Board has heard  
22      from Dean Baskerville and the articles that he has  
23      written, he's emphasized the need for quantitative  
24      objectives. Certainly my client's position is very  
25      strongly that the objectives have to be quantified to



1 the highest extent possible.

2 A. Mm-hmm.

3 Q. And I'm interested in knowing why you  
4 feel that quantified objectives are not desirable, that  
5 they should be qualitative?

6 A. Well, at the beginning of this  
7 approach to forestry I think we should realize we have  
8 many options, again, of quality and quantity, and the  
9 reason I wrote this, that indeed my concern is quality  
10 first in order to optimize, in order to maximize the  
11 qualitative background and information in this kind of  
12 modeling.

13 Q. Can I just be clear then, just so I  
14 understand. You're saying qualitative then, you're  
15 saying not qualitative in the converse of quantitative,  
16 but qualitative in terms of it's important not just  
17 quantity but quality also?

18 A. Exactly, that's right.

19 Q. Is that the essence that you're  
20 trying --

21 A. I think so, that would be probably  
22 the -- I'm sorry that perhaps I was kind of had tunnel  
23 vision on quality.

24 Q. Okay. And so you aren't adverse to  
25 quantitative objectives, but you're saying that you'd

1       like to have any quantitative objective there, that  
2       part of that definition of quantity is quality?

3               A.   I like to see the correct input of  
4       quality, yeah.

5               MR. HANNA:   Mr. Marek, thank you very  
6       much for your time.   Madam Chair, I appreciate your  
7       time, Mr. Martel.   Those are my questions.

8               THE WITNESS:   Sir, it was a pleasure.

9               MR. HANNA:   Thank you, Mr. Marek.

10              MADAM CHAIR:   Thank you, Mr. Hanna.

11              Ms. Cronk, you will be starting the  
12       cross-examination after lunch?

13              MS. CRONK:   Thank you.

14              MADAM CHAIR:   Would it be inconvenient, I  
15       have an appointment today, could we start at two  
16       o'clock, I need the time?

17              MS. CRONK:   That would be fine, Madam  
18       Chair.

19              MADAM CHAIR:   All right.   The Board will  
20       be back at two o'clock.

21              MS. SWENARCHUK:   Madam Chair, Mr. Huff  
22       would just like me to clarify for the record that the  
23       model that was being discussed is from the paper by Mr.  
24       Marek in Volume 2 of the source book, the paper  
25       entitled:   Evaluation of Three Silvicultural Treatments

1 in the Northcentral Region.

2 MADAM CHAIR: Thank you very much. And  
3 the date on that, you said eight years ago, Mr. Marek?

4 MS. SWENARCHUK: 1983.

5 MADAM CHAIR: 1983.

6 ---Luncheon recess taken at 12:05 p.m.

7 ---On resuming at 2:10 p.m.

8 MADAM CHAIR: Good afternoon. Please be  
9 seated.

10 MS. CRONK: Thank you, Mrs. Koven.

11 Mrs. Koven, if we could begin, what we  
12 have done in an effort I hope to be helpful both to the  
13 Board and to Mr. Marek, is we put in a binder and  
14 distributed to counsel for all parties the exhibits  
15 that we intend to introduce at some point, either this  
16 afternoon or during the course of the  
17 cross-examination, and what I propose to do is to  
18 provide that to the Board now, if that is acceptable,  
19 and we will mark them as we come to them, which will  
20 give the parties an opportunity to deal with them if  
21 they feel it appropriate at that time.

22 Would that be acceptable?

23 MADAM CHAIR: Thank you. That is a good  
24 idea, Ms. Cronk.

25 MR. SHIBATANI: (handed)

1 MADAM CHAIR: Thank you.

2 MS. CRONK: The good news, I hope, Madam  
3 Chair, is that the documents that we propose to refer  
4 to at some point this afternoon are in this book; the  
5 bad news is there might be one or two tabs next week  
6 that I'd like to offer to you to put at the back, but I  
7 wanted to deliver the bad news right at the beginning.

8 I'd ask that the documents contained at  
9 Tab 1 be marked now as an exhibit, they are various  
10 interrogatory responses prepared by Mr. Marek and  
11 delivered both with respect to Forests for Tomorrow  
12 Panel No. 3 and, as well, with respect to the Beardmore  
13 Watchdog Society statement of evidence. And for the  
14 record, if it would be of assistance, Madam Chair, I  
15 can tell you the interrogatory numbers and the party  
16 involved.

17 At Tab 1 then OFIA/OLMA Interrogatory  
18 responses on Panel 3, Nos. 17, 23, 24, 26, 29, 31, 35,  
19 37, 38, 41, 42, 53, 66 and 70.

20 MADAM CHAIR: That will be Exhibit 1534.

21 MS. CRONK: Also forming part of that  
22 exhibit, Madam Chair - at least, I would request that  
23 the balance of the interrogatory responses at that tab  
24 be included as well, they are the following  
25 interrogatories: For the OFAH, Nos. 3, 4, 5, 11, 14,



1 19, 20, 21 and 22, that's the OFAH; several  
2 interrogatory responses to the MNR Nos. 3, 8, 9, 10,  
3 13, 16, 17, 19, 23, 24, 26 and 29; the following  
4 responses to the Ministry of the Environment, Nos. 3, 6  
5 and 10; responses to NOTOA Nos. 1, 5, 7 and 8. And all  
6 of, those Madam Chair, apply to Panel 3, Forests for  
7 Tomorrow Panel 3. In addition, there are interrogatory  
8 responses with respect to the Beardmore Watchdog  
9 Society statement of evidence for the OFIA.

10 MADAM CHAIR: Shall we make this a  
11 separate exhibit?

12 MS. CRONK: It's all at Tab 1, it's all  
13 at Tab 1 in separate packages.

14 MADAM CHAIR: They will all be the same  
15 exhibit then. All right.

16 MS. CRONK: Thank you. OFIA/OLMA Nos.  
17 5, 7, 8, 10, 12, 14, 21 and 36; Ministry of the  
18 Environment Interrogatory No. 2, MNR Interrogatories,  
19 Nos. 3, 5, 6, 10, 17 and 22. And all of those then are  
20 that exhibit, if that is acceptable, Madam Chair.

21 MADAM CHAIR: Yes. They will all be  
22 Exhibit 1534.

23 ---EXHIBIT NO. 1534: Tab 1 - Interrogatory Responses:  
24 OFIA/OLMA Nos. 17, 23, 24, 26,  
25 29, 31, 35, 37, 38, 41, 42, 53,  
66 and 70; OFAH, Nos. 3, 4, 5,  
11, 14, 19, 20, 21 and 22; MNR

1 Nos. 3, 8, 9, 10, 13, 16, 17, 19,  
2 23, 24, 26 and 29; MOE, Nos. 3, 6  
3 and 10; NOTOA Nos. 1, 5, 7 and 8.  
4 re: FFT, Panel No. 3, and  
5 OFIA/OLMA Nos. 5, 7, 8, 10, 12,  
14, 21 and 36; MOE No. 2; MNR  
Nos. 3, 5, 6, 10, 17 and 22 re:  
Beardmore-Lake Nipigon Watchdog  
Society.

6 MS. CRONK: And then at Tab 2, Madam  
7 Chair, I would ask that another series of interrogatory  
8 responses be marked as the next exhibit.

9 And again, if it would be of assistance  
10 if I could just perhaps just quickly read those numbers  
11 out for you and the other parties. Dealing with  
12 Forests for Tomorrow's witness statement No. 3,  
13 OFIA/OLMA interrogatory responses 11, 12, 28, 30, 33,  
14 36, 44, 48, 50, 51, 54, 56, 60 and 62, 65, and 67; and  
15 for the MNR, still with respect to Forests for Tomorrow  
16 Panel No. 3, Interrogatory No. 31, and relating to the  
17 Beardmore Watchdog-Lake Nipigon Society statement of  
18 evidence, OFIA/OLMA Nos. 3, 9, 25, 26, and 34.

19 And I would ask that they be marked  
20 together, they are all at Tab 2, as the next exhibit.

21 MADAM CHAIR: All right. That will be  
22 Exhibit 1535.

23 ---EXHIBIT NO. 1535: Tab 2 - Interrogatory Responses:  
24 OFIA/OLMA Nos. 11, 12, 28, 30,  
33, 36, 44, 48, 50, 51, 54, 56,  
25 60, 62, 65, and 67; MNR  
Interrogatory No. 31 re: FFT

1 Panel No. 3, and OFIA/OLMA Nos.  
2 3, 9, 25, 26 and 34 re:  
3 Beardmore-Lake Nipigon Watchdog  
Society.

4 MADAM CHAIR: And are these supplementary  
5 interrogatories?

6 MS. CRONK: I was just going to explain  
7 that, Madam Chair. What occurred with respect to the  
8 interrogatories is that responses were provided  
9 sequentially on a number of occasions and what we  
10 attempted to do is to put a composite page together for  
11 each interrogatory question and the responses, so that  
12 where a supplementary interrogatory was sought and an  
13 answer provided, they have been added to the same page.

14 Now, I confess that there were a number  
15 of dates involved, we did everything humanly possible  
16 to make sure we had all the commentary with respect to  
17 each question on the same page, but if I have missed  
18 anything I invite my friends to tell me that. An  
19 effort has been made to put all the responses with  
20 respect to each identified question on the same page  
21 with respect to each question.

22 And then in addition to the  
23 interrogatories, Madam Chair, there are a number of  
24 exhibits that the Board will find useful, I think, to  
25 have available to you this afternoon, although I don't

1 know that we will reach them all this afternoon, but  
2 just to ensure that you perhaps have them.

3 The first is Exhibit 1519 which is Mr.  
4 Marek's curriculum vitae; the second, there's a series  
5 of three articles, Exhibits 1525, 1526 and 1524 which  
6 are works by Carelton, et al that were marked 1524, 25  
7 and 26, though I'm not sure we will get to those this  
8 afternoon.

9 MADAM CHAIR: Okay.

10 MS. CRONK: And Forests for Tomorrow's  
11 witness statement No. 3.

12 MADAM CHAIR: Thank you. We are just  
13 looking -- all right, we will all set.

14 MS. CRONK: Copy of the resume. Thank  
15 you very much.

16 CROSS-EXAMINATION BY MS. CRONK:

17 Q. Mr. Marek, I'm sorry for the  
18 housekeeping initially. Do you have a copy available  
19 to you, sir, of your curriculum vitae, that is your  
20 resume?

21 A. Can you give it to me, please.

22 MS. SWENARCHUK: (handed)

23 THE WITNESS: I got it now.

24 MS. CRONK: Q. Thank you. Mr. Marek, I  
25 have a number of brief questions regarding your



1 background and experience?

2 A. Mm-hmm.

3 Q. Looking at Exhibit 1519, your  
4 curriculum vitae, it indicates that you were born in  
5 1920, some 70 years ago?

6 A. Not yet.

7 Q. Not yet. You're almost 70?

8 A. That's right.

9 Q. Thank you. Should we be -- is there  
10 a birthday in near store that I should know about? I  
11 wouldn't want you to tell me tomorrow that I've  
12 forgotten your birthday.

13 A. If you give me some gift, we can  
14 discuss that.

15 Q. It's not tomorrow then, in any event?

16 A. No, no, no, no.

17 Q. You attended the University of  
18 Prague, Faculty of Forestry as an undergraduate  
19 according to your resume in the years?

20 A. 1938-41.

21 Q. Thank you. 1938 to 1941. And you  
22 took your state examination for forest managers in  
23 Prague in 1941?

24 A. Right.

25 Q. It doesn't say so, but I assume

1 obviously successfully?

2 A. Yes, I was.

3 Q. You were 21 years of age at the time  
4 that you passed your state examination?

5 A. Looks like. Born 1920, 1941, 21  
6 years.

7 Q. And then subsequently, if I am  
8 reading your resume correctly, you held a number of  
9 positions with various forestry agencies throughout the  
10 years 1941, through the war years, up until 1947?

11 A. That is correct.

12 Q. Were those positions held with  
13 agencies both in Czechoslovakia and in Germany?

14 A. That's right.

15 Q. Was it primarily in Czechoslovakia  
16 during that period of your career?

17 A. No, mainly in Germany.

18 Q. Mainly in Germany. Then in the years  
19 1948 to 1949 you worked at what is described as  
20 American Friends Committee on restoration work  
21 throughout Europe.

22 My curiosity was peaked, Mr. Marek. Can  
23 you help me, what was the committee known as American  
24 Friends Committee, how did that relate to forestry?

25 A. It was a Quakers organization, Madam,

1 Quakers.

2 Q. Yes.

3 A. You know Quakers?

4 Q. I do.

5 A. Okay. It was an organization which  
6 helped considerable in restoration of Europe after  
7 second world war and I was not a Quaker because I  
8 haven't got religious association, but I was approved  
9 by the leader of, I don't know if the stated title was  
10 president or chairman, to help in forestry projects  
11 throughout Europe. His name was Earle Fowler.

12 Q. What was the nature of the work that  
13 you performed with that group?

14 A. Mainly reforestation and work in the  
15 forest in assessing the damages done by war and in the  
16 forestry field.

17 Q. And was that in a number of  
18 countries?

19 A. Yes, Germany mainly and France.

20 Q. Do I take it then that your primary  
21 experience in forestry while in Europe, at least during  
22 this period of time, from 1941 through to 1949, was in  
23 Germany and latterly France?

24 A. Yeah.

25 Q. And then in 1950 it indicates that

1       you emigrated to Canada, at that point you had been a  
2       graduate forester for some nine years?

3                   A.   Yeah.

4                   Q.   Is that correct?  Sorry, sir, I  
5       didn't hear you.

6                   A.   Yes.

7                   Q.   Yes.  Thank you very much.  Now, when  
8       you came to Canada, did you work exclusively in Ontario  
9       in forestry after your arrival?

10                  A.   Yes, only.

11                  Q.   In 1951 your resume indicates that  
12       you went to work for the Pigeon Timber Company in  
13       Nipigon for at least part of that year as a lumberjack.

14                  A.   That's right.

15                  Q.   You then joined the Marathon  
16       Corporation of Canada in the latter part of 1951?

17                  A.   Mm-hmm.

18                  Q.   I'm sorry, you're going to have to  
19       say yes or no, sir, for the reporter.

20                  A.   That's right.

21                  Q.   Okay, thank you very much.  Where  
22       were you living when you were working for Marathon?

23                  A.   At Stevens, Caramat, Marathon.

24                  Q.   All in the vicinity of Marathon?

25                  A.   Well, it was American camp at that



1 time, the American corporation which had large licence  
2 from Marathon up north to Highway 11.

3 Q. You spent about five years with that  
4 company?

5 A. Mm-hmm. Correct.

6 Q. I'm sorry?

7 A. Correct.

8 Q. I'm sorry, I'm forgetting to speak  
9 loudly. During that period of time, just in general  
10 terms, Mr. Marek, I'm glancing over at the map, you may  
11 find that of assistance, just in general terms what was  
12 the geographical extent of the area that you were  
13 working in?

14 A. Marathon Corporation had several  
15 camps throughout the licence and I had worked in most  
16 of them. I remember I think was five or six camps and  
17 I think I worked in all of them.

18 Q. Could you just very briefly describe  
19 the Marathon licence as it existed at that time?

20 A. The Marathon licence go something  
21 like this.

22 Q. I'm sorry, sir. Can you put some  
23 words to that for me, I'm a little far away from the  
24 map.

25 A. Surrounding vicinity of Little Pic

1 River, goes north to McKay Lake and up to Highway 11.

2 Q. And that was up until 1957?

3 A. That's correct.

4 Q. You then went to work for the Ontario  
5 Department of Lands & Forests as it was then known?

6 A. Yeah, they asked me to work with  
7 them.

8 Q. Were you centered out of Geraldton at  
9 that point?

10 A. Yes, it was district forester in  
11 Geraldton that time who asked me, approached me to work  
12 or apply for a job, and I did, and I was then until  
13 19 -- this was in 1957, early spring.

14 Q. I'm sorry. You joined them in the  
15 early spring of 1957?

16 A. I joined them in 1951 and I quit  
17 1957.

18 Q. I'm sorry, Mr. Marek, could I ask you  
19 to look at your resume.

20 A. Yeah.

21 Q. Just for a moment.

22 A. Mm-hmm.

23 Q. It indicates in your resume that you  
24 joined the government, that is the Ontario Department  
25 of Lands & Forests in 1957.

1 A. That's correct.

2 Q. Did I understand you to say that you  
3 were working for them before that, or am I --

4 A. No, I working for Marathon  
5 Corporation of Canada.

6 Q. Yes.

7 A. From 1951 to 1956.

8 Q. Thank you.

9 A. Then I joined the Marathon  
10 Corporation 1957, April the 1st.

11 Q. Sorry. I understood that you joined  
12 the Marathon Corporation of Canada in 1951 and that you  
13 remained in its employ until 1956; is that correct?

14 A. That's right.

15 Q. And then in 1957 you joined the  
16 Ontario Department of Lands & Forests; is that correct?

17 A. April the 1st; in other words, here  
18 it should be 1951 to April, 1957.

19 Q. I understand. Thank you very much.

20 A. Okay.

21 Q. Thank you. And when you joined the  
22 Ontario Department of Lands & Forests, was it at that  
23 point that you moved to Beardmore?

24 A. No, I was working out of the  
25 Geraldton District office for a while, then I was

1 working out of Macdiarmid and because the area of my  
2 activities spread between Geraldton and Nipigon beyond  
3 it, I worked from Macdiarmid, from Geraldton, and then  
4 I think 1959 or 1960 -- 1960 established permanent  
5 residence in Beardmore.

6 Q. I see. Thank you.

7 A. I don't think --

8 Q. That is fine.

9 A. Madam, I didn't want to put it wrong.

10 Q. No, no, that's fine. That's why I'm  
11 asking you these questions, so I have an understanding  
12 of it, Mr. Marek. Thank you. That's helpful.

13 And you stayed in the employ of the  
14 Ontario Department of Lands & Forests for six years  
15 until it became the Ontario Ministry of Natural  
16 Resources?

17 A. Oh, I stayed longer than that Madam,  
18 you have to count here years. I think that 1973 to  
19 1984 I was with Ontario Ministry and then of course '57  
20 to 1973 I was with the Ontario Lands & Forests.

21 Q. All right, thank you. Just dealing  
22 with the period of time when it was known as the  
23 Department of Lands & Forests, just dealing with that  
24 period of time - I will come back to the MNR  
25 designation in a few moments - but when it was known as



1 the Ontario Department of Lands & Forests, what was the  
2 area, the geographical area of your responsibility,  
3 where were you practising forestry?

4 A. I was practising forestry, as I  
5 mentioned to you, Madam, between Geraldton, Nipigon and  
6 Macdiarmid and in the area of the so-called licence  
7 activities between Geraldton, Nipigon of Highway 11,  
8 south of Highway 11.

9 Q. On which side of Lake Nipigon were  
10 all those areas?

11 A. Partly here. The licence extended  
12 farther up from the Nipigon River, so I would say it  
13 would be like that.

14 Q. You are pointing to the south and to  
15 the east side of Lake Nipigon?

16 A. That's right.

17 Q. Thank you. And then when the agency  
18 became known as the MNR--

19 A. As the MNR, then it was extended  
20 farther up on the west side of Lake Nipigon and  
21 included these very much.

22 Q. Where you are putting your hands on  
23 the map and you are indicating that the area in which  
24 you worked became larger?

25 A. Yes.

1 Q. And it extended farther north.

2 A. Farther north and west of Lake  
3 Nipigon.

4 Q. And that was during the period of  
5 time that you were with the MNR?

6 A. MNR, correct.

7 Q. And that was, as I understand it,  
8 where you remained for a period of some 11 years in  
9 various positions with the MNR until you entered  
10 private consulting in 1984?

11 A. Right.

12 Q. Is that correct?

13 A. Correct.

14 Q. All right. During that period of  
15 time, that's 11 years from 1973 to 1984, when you held  
16 those various positions with the Ministry of Natural  
17 Resources, were you working solely in the area that you  
18 have described where your hand was, that was in all of  
19 that area that you were working?

20 A. Oh, no. When I was acting timber  
21 supervisor, Madam, I was responsible for the whole  
22 district which was something like this.

23 Q. When you say something like this, is  
24 that larger than what you told me a few moments ago?

25 A. There were several so-called ranger

1 stations or chief ranger stations which was part of the  
2 whole Lake Nipigon District, matter of fact it going to  
3 be even beyond that. I was responsible for that total  
4 area of the whole Nipigon District.

5 Q. Thank you.

6 A. Pardon me, Geraldton District,  
7 Geraldton District.

8 Q. All right. Now, as I understand it,  
9 the Geraldton District, so-called, was the predecessor  
10 of the Nipigon District?

11 A. Partially only, through the  
12 reorganization there were boundaries drawn inside of  
13 the old Geraldton District, and Nipigon District then  
14 become only part of the old Lands & Forests Geraldton  
15 District.

16 Q. All right. So that the Nipigon  
17 District for which you became responsible was smaller  
18 than, but a part of, the old Geraldton District; is  
19 that correct?

20 A. The old Geraldton District.

21 Q. All right, thank you. And throughout  
22 that entire period of time from 1960, thereabouts, on  
23 you have lived to date in Beardmore?

24 A. Correct.

25 Q. Perhaps the easiest way to do this,

1 if you would not mind, Mr. Marek, could you turn to Tab  
2 3 of the black binder that we have provided you and you  
3 will see at Tab 3 a coloured map.

4 This map was prepared Mr. Marek in colour  
5 to indicate the various management units in the  
6 vicinity of Lake Nipigon. And I wonder if you could  
7 confirm for me, first, if we could move through the  
8 legend, that they have been identified correctly.

9 First, in the pink colour, does that  
10 reflect the Domtar Management Unit as it's known today?

11 A. Is that what you call pink, pink?

12 Q. Yes. You are pointing to the one at  
13 the very top where it says Domtar?

14 A. And that's pink?

15 Q. What would you call it?

16 A. Pink. Oh, I would call mauve, I  
17 would call anything, but...

18 Q. Whatever colour you like, as long as  
19 we are talking about the same one.

20 A. As long as we know what we are  
21 talking about.

22 Q. The top one where it says Domtar  
23 Inc.?

24 A. Domtar, Domtar Management is actually  
25 Armstrong Management Unit.



1 Q. All right. Let's talk about that for  
2 a moment. You see the purple area?

3 A. Inside, that was Crown management of  
4 Armstrong.

5 Q. All right. Is it correct that the  
6 purple areas reflect the Armstrong Crown Management  
7 Unit and the pink or mauve areas reflect the Domtar  
8 Management Units which in combination are known as the  
9 Domtar/Armstrong Management Unit?

10 A. Okay, that is fine.

11 Q. Is that correct?

12 A. Yeah.

13 Q. And then looking at the colour in  
14 blue, which coincides with the area of the map under  
15 Abitibi Price's name--

16 A. Mm-hmm.

17 Q. Does that accurately depict  
18 Abitibi-Price's Spruce River Forest?

19 A. That's correct.

20 Q. And then dealing with the small block  
21 shown in red.

22 A. Yes, Giashe.

23 Q. I'm sorry?

24 A. Giashe.

25 Q. Yes. And how do you pronounce it.

1 A. Giashe.

2 Q. And does that accurately depict the  
3 Giashe Management Unit?

4 A. Mm-hmm.

5 Q. Is that a Crown unit?

6 A. No, that's a Giashe Management Unit  
7 where the band -- Indian band has a licence for that  
8 unit.

9 Q. It's not a forest management  
10 agreement area?

11 A. No, it's not forest management  
12 agreement.

13 Q. And then looking at the green colour  
14 which appears again under Abitibi-Price's name, does  
15 the area coloured in green accurately reflect the  
16 Abitibi-Price Auden licence area?

17 A. Oh got to be. I think so, yes.

18 Q. Yes, thank you. And then looking at  
19 the yellow area under the name Domtar Inc., does the  
20 area coloured in yellow accurately reflect the Lake  
21 Nipigon Forest?

22 A. Lake Nipigon Forest, Domtar, yes.

23 Q. All right. So that when the  
24 Beardmore Watchdog Society talks in the statement of  
25 evidence that you delivered on its behalf of the Lake

1 Nipigon Forest, per se--

2 A. Yeah.

3 Q. --it's that area coloured in yellow  
4 about which the Society is speaking?

5 A. No, it encompasses more than that,  
6 but yes, it's part of the concern.

7 Q. All right. Well then, perhaps we  
8 better come back to it and you can tell me about that  
9 in a few minutes, but insofar as the Domtar/Lake  
10 Nipigon FMA is concerned, is it that yellow area?

11 A. Yes.

12 Q. Thank you. And then there's an area  
13 that is shown in black hatching that's described as the  
14 Port Arthur Crown Management Unit. Can you confirm  
15 that that is accurately depicted?

16 A. You mean the areas further south  
17 there hatched in black?

18 Q. That's correct.

19 A. Okay, yeah.

20 Q. Does it accurately depict the Port  
21 Arthur Crown Management Unit?

22 A. Yes.

23 Q. Yes. And then there is an area which  
24 I call orange, but it may be brown depending how you  
25 look at it. Does it accurately depict the Canadian

1 Pacific Black Sturgeon Forest area?

2 A. Mm-hmm, it does.

3 Q. It does, thank you. And then finally  
4 there's an area, I'm advised by Mr. Shibatani that it's  
5 purple with black lines through it, it's a little hard  
6 to see.

7 A. You have different expert here, don't  
8 you?

9 Q. He's the colour code expert.

10 A. I see.

11 Q. But if you look at the purple area,  
12 the very last one on the legend, Mr. Marek, it has  
13 black lines through it.

14 A. Which one is that, Madam?

15 Q. It's purple and it has black lines  
16 through it and it indicates that it reflects the Lake  
17 Nipigon Islands Crown Management Unit?

18 A. That's correct.

19 Q. Does it accurately reflect those  
20 islands and that unit?

21 A. Colour is right.

22 Q. Is this map then an accurate  
23 reflection, insofar as you are concerned, of the  
24 management units in the vicinity of Lake Nipigon?

25 A. That's correct.



1 MS. CRONK: Madam Chair, could that be  
2 marked as the next exhibit, please.

3 MADAM CHAIR: Yes. This map will be  
4 Exhibit 1536.

5 ---EXHIBIT NO. 1536: Coloured map depicting management  
6 units in vicinity of Lake  
Nipigon.

7 MS. CRONK: Q. Mr. Marek, just looking  
8 at the map, could you with reference to these  
9 management units just briefly outline for the Board, if  
10 you would, please, what units or what portions of  
11 units, if that is the case, you were responsible for  
12 when you were forest management supervisor for the  
13 Nipigon District.

14 A. When I was acting, big difference  
15 Madam, I was acting forest management supervisor for  
16 Will Pharton who was the timber supervisor.

17 Q. Sorry for interrupting, Mr. Marek, I  
18 just wanted to be clear. When you were with the  
19 Department of Lands & Forests your resume indicates  
20 that you were acting timber supervisor at Geraldton.

21 Your resume also indicates, and you have  
22 confirmed a few minutes ago for me, that when you were  
23 with the Ministry of Natural Resources you were forest  
24 management supervisor for the Nipigon District. My  
25 question is this: When you were forest management

1 supervisor for the Nipigon District, not when you were  
2 at Geraldton --

3 A. I have never been forest management  
4 supervisor in Nipigon District, I was forest management  
5 supervisor for Nipigon District after reorganization, I  
6 was acting timber supervisor in Geraldton, the old  
7 Geraldton District.

8 Q. Thank you. After reorganization?

9 A. After reorganization.

10 Q. When your position was called forest  
11 management supervisor, am I right so far?

12 A. Yeah, yeah.

13 Q. Okay. When your position was called  
14 that, after reorganization, could you outline for the  
15 Board, please, with reference to the coloured  
16 management units, which management units or portions of  
17 units fell within your responsibility?

18 A. Yeah. That was carved out in such a  
19 way from the old district that most of the Domtar, the  
20 present Lake Nipigon, Lake Nipigon Forest as is  
21 coloured in yellow, that is okay.

22 Q. Yes. Yes, thank you.

23 A. The Abitibi.

24 Q. Which Abitibi, sir?

25 A. Green one on the northeast side of

1 Lake Nipigon, Domtar/Armstrong, and it's entity, the  
2 Crown Management Unit Armstrong, are part of the CPFP.

3 Q. Which part?

4 A. Actually in this case probably what  
5 is outlined here probably. See, one of the problem  
6 with this, you have a licence area or the management  
7 unit but you haven't got district boundary, and in  
8 order to be exact and tell you the truth where the  
9 boundary was, but it was -- the part of CPFP, Canadian  
10 Pacific. Now that time Great Lakes exist, probably  
11 that boundary of the lake line there.

12 Q. All right. Now, you are referring to  
13 a black line. There are two -- this doesn't have to be  
14 exact, I just want an understanding of it, Mr. Marek.

15 A. Below the red Giashe Unit.

16 Q. Yes, the Gull Bay portion?

17 A. Gull Bay, yeah, if you want to call  
18 it Gull Bay portion.

19 Q. All right. That is the portion that  
20 fell within the district approximately?

21 A. That's right.

22 Q. Not the southern portion of the CP  
23 Black Sturgeon Unit?

24 A. Yes, partly too.

25 Q. Partly. All right. The part to the

1 immediate south of Lake Nipigon?

2 A. That's correct.

3 Q. All right, thank you. Anything else  
4 within the district?

5 A. Certain portion of Abitibi-Price,  
6 that blue one and, of course, the nature of Great Lakes  
7 Peninsula Crown Management Unit, the Onaman Crown  
8 Management Unit.

9 Q. Sorry, what was the last one?

10 A. Onaman.

11 Q. Yes.

12 A. That's that black thing. Look at  
13 Abitibi there in green, and there is black.

14 Q. Well, perhaps we should identify that  
15 separately. If we look at the green, the management  
16 unit coloured in green which is the Auden licence, the  
17 Abitibi-Price Auden licence--

18 A. Yeah.

19 Q. --immediately to the south.

20 A. You see that white spot there, Madam,  
21 what is not coloured, that is lake Onaman.

22 Q. Yes. Okay.

23 Q. The circular area coloured in a  
24 darker colour there is coloured what?

25 A. I thought it as it's dark anyway,



1 it's Onaman Crown Management Unit.

2 Q. All right. Perhaps that should be  
3 added, Madam Chair, the Onaman Management Unit.

4 MADAM CHAIR: How do you spell that,  
5 please?

6 THE WITNESS: Onaman, O-n-a-m-a-n.

7 MADAM CHAIR: Thank you, Mr. Marek.

8 MS. CRONK: Q. And that fell within the  
9 area of your responsibility?

10 A. That's right.

11 Q. Thank you. Now, Mr. Marek, all of  
12 those areas which fell within the district while you  
13 were with the district as forest management supervisor,  
14 are they the same areas that you worked on when you  
15 were working out of Geraldton except larger?

16 A. Oh, Geraldton District was large  
17 district, one of the larger -- see, Madam, perhaps  
18 should be added here that many of these area north of  
19 these colour places also is part of the district we  
20 were responsible for.

21 Q. Okay. The Nipigon District?

22 A. Nipigon and Geraldton District.  
23 Geraldton District goes all the way to - how should I  
24 describe - matter of fact goes right to the James Bay.

25 Q. Just talking about the Nipigon

1 District then, Mr. Marek, what I'm --

2 A. And that goes farther up too.

3 Q. Fine, all right. Tell me about that.

4 Did the Nipigon District, when you were forest  
5 management supervisor, include the Kimberly-Clark  
6 Management Unit to the north of the Domtar Management  
7 Unit?

8 A. Partly, yes.

9 Q. Partly?

10 A. We were sharing responsibility for  
11 that area. See, there was lots of sharing there done  
12 in the times really after organization, several years  
13 after that, the responsibility was under one district  
14 but other district was looking after it and; in other  
15 words, staffwise and vice versa, if it was convenient  
16 to put that under supervision or activity, regardless  
17 whether it was management or management of fires or  
18 management of timbers, yes, that was interchangeable  
19 and there was quite a bit of this kind of interchange  
20 done during the reorganization and after the  
21 reorganization. I cannot tell you. I cannot tell  
22 exactly when actually this was straightened up. It  
23 took quite a bit and I couldn't exactly say when it was  
24 at the very least.

25 Q. That's fine, Mr. Marek. When was the

1 reorganization?

2 A. 1972.

3 Q. Right. From 1972 --

4 A. It might be '72, '73.

5 Q. Okay, thank you. From that time  
6 forward, are the coloured management units on the map  
7 and part of the Kimberly-Clark unit that you have  
8 described, is that a fair representation of the area  
9 that was dealt with out of the Lake Nipigon District?

10 A. No, I was not looking at Kimberly  
11 Clark anymore, no. That was under the Geraldton  
12 District.

13 Q. Okay. When you became forest  
14 management supervisor under the MNR -- just deal with  
15 that period of time.

16 A. '72, yes.

17 Q. Are the coloured units shown on this  
18 exhibit reflective of the area in which you worked  
19 during that period of time?

20 Just approximately, Mr. Marek, I'm not  
21 talking about every square mile.

22 A. I just taught about something. I'm  
23 sorry, will you repeat that question?

24 Q. After the reorganization from the  
25 time that you were formally with the Ministry of

1 Natural Resources -- forget what happened with  
2 Geraldton.

3 A. From Nipigon, yes.

4 Q. When you were working in respect of  
5 the Nipigon District, are the coloured coded units on  
6 this map reflective of the area in which you worked?

7 A. Uh...

8 Q. Thank you.

9 MS. SWENARCHUK: Excuse me, I'm not sure  
10 he answered the question.

11 THE WITNESS: I said uh, I'm sorry.

12 MS. SWENARCHUK: He did not answer the  
13 question.

14 MS. CRONK: Thank you.

15 THE WITNESS: Madam, the boundary here  
16 changed and I think that I was not looking after or we  
17 were -- Geraldton District was looking after certain  
18 area.

19 The reorganization occurred and Nipigon  
20 District was established. The area also has been  
21 changed on the west end of the old district and some of  
22 it went to Thunder Bay District.

23 MS. CRONK: Q. I see. Apart from that  
24 change, apart from that--

25 A. Otherwise, yes.



1 Q. --it's generally reflective of the  
2 area in which you worked?

3 A. Generally, yes.

4 Q. During that period of time you were  
5 living in Beardmore, you've said?

6 A. That's right.

7 Q. During part of the earlier time when  
8 you were working out of Geraldton District, you were  
9 living in Marathon, Geraldton and a number of other  
10 communities to the east of the Lake Nipigon FMA; is  
11 that right?

12 A. Madam, when I was working for  
13 Marathon Corporation or the time between 1951 to '57 or  
14 early '57 I was living there, but not after.

15 When I started with the Ministry I was  
16 living in Geraldton for few months, then I moved to  
17 McDermott, then I finally settled down in Beardmore.

18 Q. Thank you. I won't dwell much longer  
19 on this, Mr. Marek, I just want an understanding of it.

20 A. I know.

21 Q. From the time you joined the  
22 government until the time you left the government, 1972  
23 to 1984, was the land base that you worked on  
24 approximately reflected by the areas --

25 A. I'm sorry, Madam Chair.

1 Q.: I'm not speaking loud enough?

2 A. I worked for government since 1951.

3 Q. Okay. Mr. Marek, could I ask to you  
4 look at your resume, please, sir?

5 A. Yes, for Lands and Forests. Lands  
6 and Forests was the government, Madam. So when you  
7 talk about government, I worked from 1956 or '57 in  
8 this case to 1984 for the the Ontario government.

9 Q. I beg your pardon. I beg your  
10 pardon. All right. You are quite right and I  
11 apologize. From 1957 through to 1984--

12 A. I worked for the Ontario government.

13 Q. --and during that period of time,  
14 does the map marked as this exhibit reflect the  
15 management units primarily over which you had any  
16 responsibility or involvement?

17 A. Approximately.

18 Q. Thank you very much. Now, in  
19 reviewing your background and experience, Mr. Marek,  
20 Mrs. Swenarchuk went through a number of other areas  
21 with you and I have a number of brief questions about  
22 that, if I might.

23 You may recall that in addition to  
24 description the nature of your role with the government  
25 over the years, you also described for her a number of

1 particular studies that you were involved in, a number  
2 of what you described as innovative approaches with  
3 respect to site preparation and the like.

4 Do you remember that discussion?

5 A. I do.

6 Q. All right. One of the areas that you  
7 spoke about with her involved your work with  
8 etiological studies. Do you recall that?

9 A. Ecological studies.

10 Q. I thought it was etiological?

11 A. Oh, etiological, okay. Etiological  
12 studies, yes.

13 Q. Did I understand your evidence  
14 correctly that you did work in etiological studies?

15 A. Etiological studies, yes.

16 Q. You told the Board that that related  
17 to the causal relationships?

18 A. Causal relationship, yes.

19 Q. As I wrote it down, you also  
20 indicated that that related to a steady study of the  
21 forest.

22 A. I don't know if you want to call it  
23 steady study of the forest because we have a steady  
24 condition of the ecosystem and steady things. So  
25 steady, Madam, I don't think is a proper word.

1 I have sequentially or every so often  
2 documented or studied the changes in the areas of  
3 concern. So steady study, if you want to call it I'm  
4 studying, I was steady for last so many years the  
5 forest ecosystem, well, perhaps that has a certain  
6 meaning, but steady doesn't make any sense to me.

7 Q. That's fine, sir.

8 A. I have, indeed, studied the forest,  
9 examined it perpetually, I have documented it in my  
10 mind, documented it in some of my findings and I still  
11 do so.

12 Q. I may have taken down the word  
13 -incorrectly, Mr. Marek. Nothing turns on it.

14 A. No.

15 Q. What I'm interested in knowing from  
16 you, sir, is what the nature was of the studies that  
17 you undertook that you described as etiological. What  
18 kinds of studies are we talking about?

19 A. Okay. I'm aware of, No. 1, the term  
20 etiology --

21 Q. I am familiar with the discipline,  
22 sir, and I would like to know what kinds of studies you  
23 undertook --

24 A. In terms of medicine.

25 Q. Excuse me, sir, let me just finish



1 the question. I am interested in knowing what kinds of  
2 studies in the field of etiology that you undertook?

3 A. The study of changes in the forest  
4 ecosystem, disturbed and undisturbed.

5 Q. Was there a particular point in your  
6 career when you undertook those studies or was it  
7 throughout?

8 A. Throughout when I arrived in Canada  
9 because I thought that the conditions which I had found  
10 here were very conducive to studies, observations and,  
11 to some degree, documentation and I designed -- as a  
12 matter of fact, right from the beginning, from 1950  
13 when I arrived or '51 in this case, I got involved in  
14 the studies.

15 Now, this was not initiated by the  
16 government or by my employer at that time, Marathon  
17 Corporation, it was initiated on my own because I was  
18 interested in it and I found it very helpful to engage  
19 in the design practices and prescriptions which I  
20 thought were necessary to improve the well-being of  
21 Ontario forests.

22 Q. Were any of your etiological studies  
23 documented in writing, Mr. Marek?

24 A. Many of these studies were initiated  
25 by me after I have studied, then I got some graduate

1 students and scientists involved in the same line of  
2 work. In that way, yes, I have input in it, input in  
3 many publications which perhaps doesn't carry my name,  
4 but I was initiating them and the scientists and the  
5 graduate students or post-graduate students found it  
6 interesting enough and find sponsors like Dr.  
7 Baskerville who would say: Go down and see Marek and  
8 study this and so on because the information was  
9 available and also the background information was very  
10 well preserved for these studies.

11 Q. I understand. There are various ways  
12 that one can go about this and I take it that you  
13 served as a resource person and a facilitator for  
14 people who were doing etiological studies; is that  
15 correct?

16 A. No, Not only etiological study.  
17 Again, please we have to talk about -- etiological  
18 studies is only one part of certain documentation where  
19 I had quite a few people interested in other studies  
20 but etiological studies.

21 Q. For the moment, Mr. Marek, I would  
22 ask you to concentrate just on etiological studies,  
23 that's what my question was directed to, and I  
24 understood you to have said provided input and you  
25 helped initiate the work of others in that field?

1 A. Correct.

2 Q. Do I have that correctly?

3 A. Yeah.

4 Q. Was any of your own work documented  
5 in writing under your own name in this field?

6 A. Oh, I guess there is one or two that  
7 was mentioning my name. It usually appears in  
8 publication: Thank you, George Marek, for stimulating,  
9 for this and that.

10 I don't think I was very anxious to be  
11 named as an author because I think the challenge to me  
12 was to initiate it, to follow it and observe it and get  
13 the young people involved in these kind of field which  
14 I think is too important to be neglected; in other  
15 words, not to be done, and I think that I bear my fruit  
16 from that. I'm very proud of these people and I think  
17 I still work with them to some degree.

18 Q. I can understand the approach that  
19 you took, Mr. Marek. I am trying to ascertain the  
20 facts. Do I take it then that the answer was that  
21 there are no etiological studies documented under your  
22 own name per se as author?

23 A. I suppose one of the -- if you want  
24 to call it etiological studies, is a report by one  
25 Timmer, Savinksi and Marek. That's one of them.

1 Q. All right.

2 A. The others just in the form of  
3 compliment and saying: Thank you, you have done it or  
4 you instituted it or you have simulated me to do that.

5 Q. All right, thank you. And the  
6 Clemmer, Savinski and Marek --

7 A. No, no Clemmer.

8 Q. I'm sorry?

9 A. No Clemmer there.

10 Q. I thought you said one of them was  
11 the Clemmer, Savinski an Marek study. Did I hear that  
12 incorrectly?

13 A. It was Timmer, Savinski.

14 Q. Timmer. I beg your pardon.

15 A. And that article was among the source  
16 books materials that you have provided to the Board?

17 A. That's right.

18 Q. Thank you. Apart from that study, as  
19 I understand it, in the area of etiological studies,  
20 there are none that you can point me to documented in  
21 writing under your authorship; is that fair?

22 A. In other words, I did not write  
23 anything and publish anything which dealt with  
24 etiological studies, right you are.

25 Q. Thank you very much. could we turn



1 then next, Mr. Marek, again so that I can have an  
2 understanding of it, to the subject of the black spruce  
3 working group.

4 You explained to Mrs. Swenarchuk that you  
5 were Chairman of that group and, as I understand it,  
6 that was the group formed to oversee strip cutting  
7 studies carried out in the Lake Nipigon area in the  
8 1970's and the early 1980's. Do I have the right  
9 group?

10 A. Yes, you talk about the black spruce  
11 working group.

12 Q. Was that the function of the group?  
13 Was it related to those strip cutting studies that you  
14 referred to in your evidence?

15 A. Madam Chair, it was a study which  
16 investigated the "ecosystem" of black spruce. That was  
17 the official kind of ecosystem research into the black  
18 spruce.

19 Q. Was the work of the black spruce  
20 working group related to those studies? Is that what  
21 the group did?

22 A. The group of gathered scientists and  
23 the Ministry, I was representing them, the Industry and  
24 federal government was investigating the ecosystem of  
25 black spruce; in other words, there were dealing with

1 black spruce biome.

2 Q. Mr. Marek, we will come in more  
3 detail to the studies themselves, but just for the  
4 moment, sir, I want to make sure I have the right  
5 group. You have told the Board you were Chairman of  
6 the black spruce working group?

7 A. That's correct.

8 Q. Is that the group whose work  
9 concerned the strip cutting studies conducted in the  
10 Lake Nipigon FMA area in the 1970's and the early  
11 1980's?

12 A. Partly.

13 Q. Thank you. Apart from yourself, who  
14 were the members of that committee?

15 A. Well, the committee changed their  
16 members, Ma'am, and I don't think I will be able now to  
17 just give you the members. It was ten years, and if I  
18 remember right some people were in for a while and then  
19 new people were because these studies are extremely  
20 complex studies, so there was quite a few people  
21 involved on the part of the CFS anyhow.

22 Now, on the part of the department or  
23 Ministry at that time, some people got involved on a  
24 part-time basis, then they left and some other people  
25 came in on a part-time basis, some of them were

1 scientists, some of them were administrators. As far  
2 as the participation of Domtar, it was the same thing,  
3 the people were coming, they were some permanent, then  
4 they changed and somebody else.

5 So in order to tell you who was on and  
6 off and who were there six months or two years or ten  
7 years, I know one thing, I was a member for ten years  
8 and could I then say there were various members from  
9 different organizations involved.

10 Q. I understand. Leaving aside the  
11 identity of the individuals then, am I correct that the  
12 Ministry of Natural Resources was represented in the  
13 group?

14 A. By me as the Chairman.

15 Q. All right.

16 A. And temporarily some other people got  
17 involved and participated not on the technical area; in  
18 other words, the research, but as more as administrator  
19 and see what the progress is.

20 Q. Was one of those individuals Mr. Fred  
21 Robinson?

22 A. I guess Fred Robinson was on it for a  
23 while, yes.

24 Q. As well you indicated that the  
25 Canadian Forest Service, the CFS, was represented in

1 that group?

2 A. That's correct, as a scientific body  
3 they were.

4 Q. They were the scientific advisors to  
5 the group?

6 A. major -- they were not advisors, they  
7 were people who were interested in that field of  
8 research and were ordered to participate or were  
9 participating in that research. They were mostly  
10 researchers.

11 Q. All right. Did the CFS  
12 representative include Mr. Ketcheson of whom the Board  
13 has heard and Mr. Fraser?

14 A. Yes.

15 Q. And then there were Domtar  
16 representatives, as you indicated, as well?

17 A. There were other people from CFS.

18 Q. Yes, it included those two  
19 individuals, though, did it it not?

20 A. Yes.

21 Q. Then there were Domtar  
22 representatives, you indicated?

23 A. Yes.

24 Q. And you were the Chair?

25 A. I was the Chair.



1 Q. All right. Were those the three  
2 groups represented in the black spruce working group?

3 A. Pardon me?

4 Q. Are those the three groups that were  
5 represented in the black spruce working group?

6 A. Officially yes.

7 Q. The identity of the individuals  
8 changed over time, but those were the groups?

9 A. That's right.

10 Q. All right. Would it be fair to say,  
11 Mr. Marek, that your experience as a forester over the  
12 years has focused on the land base comprising the  
13 Nipigon District reflected in the map that we have  
14 looked? That's been the primary focus of your work?

15 A. In official capacity, yes, in  
16 official capacity, but in the unofficial I got involved  
17 in many other areas and especially in the research and  
18 documentations and study advisor.

19 So I was quite active in the much larger  
20 area in dealing with my colleagues and researchers on  
21 certain problems or identification of problems and my  
22 expertise was...

23 Q. I take it, sir, that over the years  
24 you certainly made every effort to keep current and to  
25 keep up with the research efforts that were ongoing at

1 the time and you were involved in discussing various  
2 research projects with various scientists; is that  
3 correct?

4 A. That is correct.

5 Q. But in terms of your actual working  
6 duties, am I correct that the primary focus of your  
7 career concentrates on the Lake Nipigon District area?

8 A. Yes, that was fill-in services which  
9 were specified to me; in other words, according to  
10 specifications of your duty and so on.

11 Q. Yes. And in large part, at least  
12 latterly in your career, those duties had a great deal  
13 to do with the Lake Nipigon FMA area; is that correct?  
14 The Domtar FMA area?

15 A. Yes.

16 Q. That's where your plantations, for  
17 example, were established that you referred to at  
18 Limestone Lake?

19 A. That's on the old Domtar licence or  
20 St. Lawrence licence, yes.

21 Q. And that's where your plantations at  
22 Tyrole Lake were established?

23 A. That's correct.

24 Q. Of course that's where Beardmore is?

25 A. That's where what?

1 Q. Where Beardmore is, within the Lake  
2 Nipigon FMA?

3 A. The Tyrole Lake management unit or  
4 the plantation in that area is north of Beardmore.

5 Q. Within the Domtar Lake Nipigon FMA?

6 A. It become. Originally it was other  
7 licence. It was licence which eventually become part  
8 of Domtar.

9 Q. And that's where the strip cutting  
10 studies were conducted that the black spruce working  
11 group was involved with?

12 A. Not that same area, but very...

13 Q. In the central portion of the Lake  
14 Nipigon FMA?

15 A. No, I think the old portions.

16 Q. I'm sorry, I didn't hear you, sir.  
17 In the old portion?

18 A. The strip cutting has been done in  
19 various locations on the St. Lawrence licence; in other  
20 words, in various locations of the Lake Nipigon -- Lake  
21 Nipigon FMA.

22 Q. All right. And we will come to this  
23 in a more deal detail, as I said, but the strip  
24 cutting studies that involved extensive reported work  
25 by Jeglum and other scientists were conducted on the

1 Lake Nipigon FMA limit area; is that correct?

2 A. In the scope of the black spruce  
3 working group, yes. In the scope of total strip  
4 cutting in the district, because lots of the strip  
5 cutting has been done on the Abitibi, in that area of  
6 green there. (indicating)

7 Q. Yes.

8 A. And some of it was done on the  
9 Nipigon Crown Management Unit, some of it was done on  
10 Giashe, so strip cutting has been done all over.

11 Q. Yes, I appreciate that. We will come  
12 to that as well, Mr. Marek, but in terms of the studies  
13 about which --

14 A. But the study was --

15 Q. On the Lake Nipigon FMA?

16 A. Most scientific area of three  
17 scientific area that were under the black spruce  
18 working group.

19 Q. And they were all on the Lake Nipigon  
20 FMA?

21 A. They were all related.

22 MS. CRONK: Madam Chair, I am conscious  
23 that our start time this afternoon was different than  
24 normal. What is the Board's pleasure with respect --  
25 Shall we continue on or do you wish to take a break?



1 MADAM CHAIR: Would you like a short  
2 break, Mr. Marek?

3 THE WITNESS: No, no, that's fine.

4 MADAM CHAIR: Is that agreeable with you,  
5 Ms. Cronk?

6 MS. CRONK: That's fine.

7 MADAM CHAIR: Let's go to four o'clock  
8 then.

9 MS. CRONK: That's fine.

10 MS. SWENARCHUK: In that case, could I  
11 tell my friend that the Mrs. Swenarchuk that I know  
12 best is my mother and I use Ms.

13 MS. CRONK: Fine, thank you. Sometimes  
14 it comes out that way and sometimes it doesn't. I  
15 apologize to my friend.

16 MADAM CHAIR: Ms. Cronk, did you need  
17 some water?

18 MS. CRONK: Yes, I would. Thank you very  
19 much.

20 MADAM CHAIR: I'm not using this.

21 MS. CRONK: Q. Mr. Marek.

22 A. Yes, Ma'am.

23 Q. Mr. Marek, I would like to talk for a  
24 moment, if I could, about the primary focus in terms of  
25 species of your work over the years.

1                   You have told the Board in your  
2       evidence-in-chief that the reason that the reason that  
3       you were here today is because of your concern about  
4       black spruce and you chose that species over the years  
5       of your career as a benchmark. Did I hear your  
6       evidence correctly?

7                   A. That's right.

8                   Q. All right. Would it be fair to say,  
9       sir, that over the course of your career you have had a  
10      particular interest and a particular focus on the black  
11      spruce working group?

12                  A. I testified to it, Madam.

13                  Q. The answer is yes, sir?

14                  A. I testified to it.

15                  Q. Thank you. It has been, I suggest,  
16      the primary focus of your work?

17                  A. No, no. I think the -- when I look  
18      at the activities and I look at my involvement in the  
19      forestry, not specifically, but I had other concern and  
20      that overall concern is the well-being of all forests.  
21      That is my primary concern, and I would say that spruce  
22      just happened, so I found specifically interesting and  
23      exciting, so I got involved in that, perhaps more than  
24      I would have done for jack pine or poplar or tamarack  
25      or whatever species we have.

1                   No, black spruce always kind of -- and I  
2                   think I testified why. I think it was part of the  
3                   testimony, Madam Chair.

4                   MADAM CHAIR: Yes, Mr. Marek, it was.

5                   MS. CRONK: Q. It held and continues to  
6                   hold a special fascination for you?

7                   A. Yes.

8                   Q. All right. And I was not intending  
9                   to suggest, Mr. Marek, that you were not interested in  
10                  a large number of other areas over the course of your  
11                  career, but in terms of species, particular working  
12                  groups found in the boreal forest, black spruce is the  
13                  species and working group that's been the primary  
14                  matter of your attention?

15                  A. It was, and may I qualify this,  
16                  perhaps I should have done it earlier. The reason for  
17                  that was because I thought and I still think that black  
18                  spruce is poorly understood in general, that black  
19                  spruce required attention specifically, that black  
20                  spruce is something we should be concerned in the  
21                  future.

22                  Q. Now, you indicated that you left the  
23                  employ of the government, Mr. Marek, in 1984. The  
24                  Board has heard evidence that the MNR's current timber  
25                  management planning manual was introduced in 1985, as I

1 recall the evidence, and revised in 1987.

2 I take it, as those events occurred after  
3 you left the employ of the Ministry, that you have no  
4 experience in implementing timber management planning  
5 under the Ministry's new timber management planning  
6 process as reflected in that manual; is that correct?

7 A. Well, obviously I left the services  
8 and I left the -- so I'm not directly involved with any  
9 of these duties which is, of course, now in the hands  
10 of somebody else and other foresters and so forth.

11 Q. Similarly, given the dates of the  
12 events involved, you have had no experience in  
13 authoring or approving a timber management plan  
14 prepared under the Ministry's new Timber Management  
15 Planning Manual?

16 A. Will you come again, please?

17 Q. Yes. Given the dates that we were  
18 talking about, your departure in 1984, introduction of  
19 the manual 1985, revised in 1987, am I correct that you  
20 have had no experience in authoring or approving a  
21 timber management plan under that new planning regime?

22 A. Exactly.

23 Q. Then finally on this area, Mr. Marek,  
24 you indicated to Ms. Swenarchuk that over the years you  
25 had had, I think you said, continuing contact with a



1 number of scientists that included Drs. Baskerville,  
2 Wheatman and others. Do I have that correctly?

3 A. That's correct. That's right.

4 Q. All right. I think you indicated as  
5 a non-scientist you felt that collaboration with them  
6 most helpful; is that fair?

7 A. Yes.

8 Q. Could I turn then to perhaps a new  
9 issue, Mr. Marek, and that is the evidence you have  
10 given before the Board concerning tending activities  
11 and protection activities and dealing specifically with  
12 your evidence on those issues.

13 You have given evidence over the course  
14 of the last several days, Mr. Marek, on the various  
15 types of insect damage that species in the boreal  
16 forest can sustain. You recall all of your evidence in  
17 that regard, in general terms?

18 A. Yes, in the form of slides, yes.

19 Q. You have given evidence throughout  
20 that slide presentation on the types of vegetation  
21 competition that can be encountered either infrequently  
22 or frequently in the boreal forest?

23 A. That's correct.

24 Q. You have observed, as I understand  
25 it, many of those things personally in the field and

1       you have told the Board about that?

2                   A.   That's right.

3                   Q.   With respect to the issue of  
4       protection and insects in particular, am I correct that  
5       you have had no formal training in entomology?

6                   A.   Yes, I've have had formal training.  
7       Yes, I did.

8                   Q.   Where was that?

9                   A.   University of (inaudible).

10                  Q.   That was in the undergraduate courses  
11       you took in forestry while you were living in --

12                  A.   And later on during my practice.

13                  Q.   I'm sorry?

14                  A.   And later on during my practice.

15                  Q.   Your practice in Europe or in Canada?

16                  A.   In Europe.

17                  Q.   Since your emigration to Canada in  
18       1950, some 40 years ago, have you had any formal  
19       training in entomology?

20                  A.   I think I took some courses with the  
21       MNR or -- no, it was actually with Lands and Forests,  
22       but otherwise no, I didn't go back to university  
23       neither officially be paid as a part of my -- no, I  
24       didn't.

25                  Q.   Please understand me, Mr. Marek. I

1 am in no way undermining the experience that you have  
2 had, but I wish to be clear about what it is, and what  
3 I am suggesting to you, sir, is that you are not an  
4 entomologist as such as a professional would be known  
5 in Ontario; is that correct?

6 A. No, definitely. I'm not a scientist  
7 or entomologist; no, I'm not.

8 Q. And, similarly, your career has not  
9 been devoted to a study either of herbicides or  
10 insecticides; is that correct?

11 A. Again, I took some courses during the  
12 service.

13 Q. That's not been the focus of your  
14 career, however?

15 A. Not my specialties, neither I  
16 continued attended any further educations.

17 Q. I'm sorry, I didn't hear the last  
18 part.

19 A. Well, I didn't -- besides a few  
20 courses which I took with Lands and Forests and  
21 Ministry on activity as herbicides, I was not able and  
22 not, as a matter of fact, willing to further my  
23 education in this field by attending some high  
24 scientific education, no.

25 Q. Thank you. And, Mr. Marek, in

1 fairness to you and in fairness to those who must weigh  
2 and assess your evidence in the end of the day, would  
3 it be fair to say that you are not an expert on  
4 tending?

5 A. Would you mind to explain what you  
6 mean by expert in tending, please?

7 Q. Do you regard yourself, sir, for  
8 example, as an expert in herbicides?

9 A. No. I would say this, while I'm not  
10 expert in herbicides as such, I'm talking chemistry,  
11 but I consider myself through many, many years  
12 experimenting with herbicide, cooperating on research  
13 done by Dow Chemical, for instance, and others that I  
14 have a pretty good idea and I would say that I can  
15 compete in knowledge and discussion on the issue of  
16 herbicides.

17 Q. You most certainly have had  
18 experience in the use of herbicides, you have described  
19 that to the Board?

20 A. Very much so.

21 Q. You have some opinions to offer and  
22 you have offered them to the Board as to the types of  
23 tending that should be undertaken in the boreal forest  
24 in the areas where you have worked; is that correct?

25 A. That's correct.



1 Q. All right. In respect of herbicides  
2 generally, however, do you regard yourself, sir, as a  
3 scientific expert on the use of herbicides in forestry?

4 A. On the application and results of  
5 spraying, yes.

6 Q. Do you mean by that in a  
7 silvicultural context?

8 A. In a silvicultural context,  
9 application and than the results of it.

10 Q. All right. Beyond that in any  
11 respect do you regard yourself as an expert on  
12 herbicide use in forestry in Ontario?

13 A. Madam, it has been -- it has just  
14 been repeated and I'm going to repeat what has just  
15 been said. I didn't take any university or advanced  
16 studies in use of herbicides, but I have read many  
17 articles, I keep in touch with scientific development  
18 and herbicides usage, but I have through my study,  
19 etiological study, I have very well observed and still  
20 observe the effects of herbicides in silvicultural in  
21 the area with which I have observed.

22 Q. And would it be fair to suggest as  
23 well with respect to protection activities, including  
24 the use of insecticides, that you have again observed  
25 their use in the field and you have certain opinions to

1 offer in that regard which you have expressed to the  
2 Board; is that correct so far?

3 A. Otherwise I wouldn't have expressed  
4 it, Madam.

5 Q. Would it be fair, however, to suggest  
6 that you are not an expert in insecticides or  
7 protection activities in forestry in Ontario?

8 A. Please, may I hear from you what you  
9 consider expert, please?

10 Q. With respect to insecticides  
11 particularly of any kind, Mr. Marek, do you regard  
12 yourself as an expert on their use, their nature and  
13 their application in forestry?

14 A. I would consider myself an expert in  
15 the field of effectiveness, strategy used in herbicide  
16 application in a silvicultural term.

17 Q. I was talking about insecticides, Mr.  
18 Marek?

19 A. You are mixing these things. You  
20 said herbicides one and insecticides next. Okay, I  
21 accept that -- put these two things together, they  
22 would probably apply for both, herbicides and  
23 insecticides.

24 Q. Let's just deal with the insecticides  
25 -for the moment- because that's what my question was. Do

1       you regard yourself as an expert on the use in forestry  
2       of insecticides in Ontario?

3                   A. Madam, I have to ask you again, what  
4       do you mean by expert?

5                   Q. In the sense that I explained it to  
6       you; that is, the nature of insecticides and their use  
7       and application in forestry in Ontario. Do you regard  
8       yourself as an expert in those fields?

9                   Mr. Marek, please understand --

10                  A. No, Madam --

11                  Q. Let me rephrase the question.

12                  A. Rephrase the question. What do you  
13       mean by expert?

14                  Q. Let me be quite clear. You have  
15       observed the use of insecticides in the forest?

16                  A. And its effect.

17                  Q. And its effect, and you have some  
18       views about that and you have expressed them to the  
19       Board; correct?

20                  A. Madam Chair, isn't that the part of  
21       expertise?

22                  Q. Mr. Marek, excuse me, sir.

23                  A. Should I address you or should I  
24       direct it to you?

25                  MS. SWENARCHUK: I think the problem here

1 perhaps is that this is a legal question to some extent  
2 and perhaps the witness is simply not clear, as a  
3 non-lawyer may well not be, on precisely the meaning of  
4 the term expert in that sense.

5 MS. CRONK: Madam Chair, I will try  
6 another way and leave it if it doesn't conclude the  
7 matter, with your permission.

8 MADAM CHAIR: Thank you.

9 THE WITNESS: In our --

10 MS. CRONK: Q. Mr. Marek, could I ask  
11 the question for a moment and I would be delighted to  
12 receive your answer on it.

13 The point is simply, without in any way  
14 undermining the observations that you have made over  
15 the years with respect to the use of insecticides,  
16 would you agree with me, sir, that in the sense of any  
17 formal training or in the sense of any scientific  
18 degrees quite clearly you are not an expert in  
19 insecticide use in forestry?

20 Is that a fair summary of the situation?

21 A. We still are bouncing with that term  
22 what expert means. Madam Chair --

23 MADAM CHAIR: I think, Mr. Marek, if Ms.  
24 Cronk will agree, I think she has defined expert in two  
25 senses; one is having a university degree in the



1 specific field.

2 THE WITNESS: I recognize that.

3 MADAM CHAIR: Secondly, being an  
4 accredited professional that you would -- that would be  
5 your profession. You would be recognized as having  
6 some professional accreditation as being an expert --

7 THE WITNESS: As a forester or I suppose  
8 as a member of Professional Forestry Association, I  
9 invite you to explain to me what expert -- if I'm  
10 expert or not in forestry, and that includes, of  
11 course, your herbicides, insecticides, black spruce.

12 Madam Chair, you can direct me this  
13 question, if it goes this way or she goes this way, a  
14 question on black spruce as expert; is that so?

15 MADAM CHAIR: Are we going to get very  
16 far with this, Ms. Cronk?

17 MS. CRONK: No farther at all, Madam  
18 Chair, I am going to leave it.

19 MADAM CHAIR: Where are you going after  
20 this?

21 MS. CRONK: Into another matter.

22 Q. Mr. Marek, thank you, we have your  
23 evidence on that. Could I ask you to go, if you would  
24 please, to the documents at Tab 1 of the black book  
25 which you've been provided.

1 A. Tab 1?

2 Q. Tab 1.

3 A. What page number?

4 Q. Well, unfortunately they are not  
5 numbered sequentially, Mr. Marek, but if you look for  
6 the interrogatories from the Ontario Federation of  
7 Anglers & Hunters No. 5, it's about a third of the way  
8 through the document.

9 A. Would somebody do me a favour,  
10 interrogatories --

11 Q. No. 5.

12 A. No. 5, is that --

13 Q. That is No. 5, the page that says  
14 page 2 in small print.

15 A. Okay.

16 Q. Do you have that, Mr. Marek?

17 A. I have that. Paragraph 3.

18 Q. You have paragraph 3.

19 A. Paragraph 3:

20 "The second growth can be characterized  
21 as primary..."

22 Q. Yes, that's right, Mr. Marek.

23 A. Oh, all right. So go ahead.

24 Q. Would you wait just a moment. Mr.

25 Marek, in this interrogatory you were asked by the

1 Ontario Federation of Anglers & Hunters with respect to  
2 a statement that you had made in your witness  
3 statement:

4 "What alternative decision rule is  
5 proposed to direct silvicultural activity  
6 in timber management in general?"

7 Do you see that, that was subparagraph 1?

8 A. What alternate...

9 Q. Alternate decision rule. Do you see  
10 the question?

11 A. Yeah.

12 Q. You were also asked in the next sub  
13 question:

14 "What decision-making process is proposed  
15 to incorporate this alternate decision  
16 rule or rules in timber management  
17 planning?"

18 Do you see that?

19 A. Yes.

20 Q. Could I ask you to look down and to  
21 that second question.

22 A. Mm-hmm.

23 Q. The question being:

24 "What decision-making process is  
25 proposed...", and your answer to that

1 second question -- or at least the answer was:

2 "The foundation of any decision-making  
3 process is credible and fact  
4 documentation."

5 A. Yeah.

6 Q. "All potential users should have  
7 input into and some influence on the  
8 decision-making process."

9 A. Mm-hmm.

10 Q. Did you prepare that answer, Mr.  
11 Marek?

12 A. Yes, I did.

13 Q. Now, you gave that answer in the  
14 context of the timber management planning process, but  
15 would you agree with me, in a different context, that  
16 it is important that the information that is placed  
17 before this Board be credible and factual to the extent  
18 humanly possible if we are to assist the Board in its  
19 determinations? Do you agree with that?

20 A. Yes. I don't think that is -- we all  
21 do our best; do we, Madam.

22 Q. That's right. And all I am really  
23 suggesting, Mr. Marek, is that we all have an  
24 obligation to ensure that accurate and factual  
25 information is placed before the Board; would you



1 agree?

2 A. Accurate, yes, to who?

3 Q. And factual?

4 A. Factual as a man can see it.

5 Q. That's right, to the extent that it's  
6 possible to do that?

7 A. That's right.

8 Q. All right. Could we start then with  
9 some of the evidence that you gave last week, Mr.  
10 Marek, in the area of planning and indeed more  
11 yesterday and today with Mr. Hanna. And if we could  
12 speak first about the role of the professional forester  
13 as you see it. You have made it clear, if I understand  
14 your evidence correctly, what you regard to be the role  
15 of a professional forester.

16 A. Yeah.

17 Q. And you indicated that in making  
18 decisions in the field it is important, in your view,  
19 that a professional forester rely on his or her past  
20 experience; is that correct?

21 A. Mm-hmm. Yes, that's right.

22 Q. Sorry, sir, you just have to say yes  
23 or no for the reporter.

24 A. Yes, yes, yes, yes.

25 Q. I understand. And if I understand

1 your evidence correctly, you have also indicated that  
2 you regard it important that the professional forester  
3 in the field learn from not only their own past  
4 experience but the experience of others; is that  
5 correct?

6 A. Yes.

7 Q. All right. And further, that you  
8 regard it as important that professional foresters make  
9 use of their intuition and their professional judgment;  
10 is that correct?

11 A. That's correct. You asked me if it's  
12 correct, so I said yes.

13 Q. That is your opinion?

14 A. Correct.

15 Q. All right. You said all of those  
16 things are important and should be utilized by  
17 professional foresters in making decisions with respect  
18 to forestry issues?

19 A. Yes.

20 Q. Would you agree with me, Mr. Marek,  
21 in light of that perception of the role of the  
22 professional forester that in order to get the job done  
23 properly it's important that professional foresters  
24 have available to them all of the tools that modern  
25 up-to-date, state-of-the-art science can afford them?

1 A. Yes.

2 Q. That applies to matters such as  
3 equipment?

4 A. Yes.

5 Q. It applies to matters such as  
6 training?

7 A. Yes.

8 Q. It applies to the tools available for  
9 tending, protection, renewal?

10 A. Yes.

11 Q. All the timber management activities?

12 A. What forestry is all about, there are  
13 many facets of forestry or forest management. So, yes,  
14 indeed, there is numerous requirement to perform duty  
15 of professional forester, yes.

16 Q. Would you agree then that no avenue  
17 of potential use to a professional forester should be  
18 foreclosed as a general matter from use in forestry, no  
19 potential tool should be foreclosed as a general rule  
20 to the access of foresters?

21 A. Can you put it in other words, Madam?

22 Q. Yes. If it is your view, as I  
23 understood you to say it was, that all tools available  
24 by modern, state-of-the-art science be available to  
25 foresters, would you agree that it would be

1 inappropriate to foreclose from the use of professional  
2 foresters any particular innovation available in the  
3 scientific communities?

4 A. Yes.

5 Q. If it has a possible forestry  
6 application?

7 A. If it were foreclosed and restricted?

8 Q. Yes.

9 A. Restrict. Okay, I agree.

10 Q. What I'm suggesting to you, sir, is  
11 this, and I'm asking for your opinion on this, that it  
12 would be inappropriate if professional foresters are to  
13 do the job that society imposes on and expects of them,  
14 that any particular form of equipment be prohibited  
15 from their use; that would be inappropriate?

16 A. Any appropriate --

17 Q. As an example.

18 A. I think there is something there  
19 which has a double edge, Madam, and that edge may be  
20 something like this: If professional forester in his  
21 wisdom is willing, and consciously willing and be  
22 responsible for using certain tool in forest  
23 management, he's got two options; the goals and  
24 objectives of the society, the fulfillment of his  
25 professional responsibility as a professional and there



1 are certain code of ethics, Madam.

2 Q. Yes.

3 A. But thirdly, I would say something  
4 which perhaps we are missing, and here I see the double  
5 edge there, that forester, to my personal opinion,  
6 should have a very deep concern and responsibility, not  
7 only to his employer, not only to his bread giver, all  
8 right, but also should have very conscious -- develop  
9 responsibility towards the forest lands, and I think  
10 this is perhaps something which code of ethics should  
11 be dealing with because being a professional forester,  
12 Madam, I have fought relentlessly for improvement of  
13 code of ethics to include the responsibility towards  
14 the forest lands, I have resigned from the --

15 Q. Well, Mr. Marek, if we could leave  
16 aside for the moment the part of the discussion  
17 relating to the formal code of ethics.

18 A. Yeah, but you are still dealing --  
19 you suggest, Madam, tools and here again I worry about  
20 this term tool.

21 Q. Let me clarify it so there's no  
22 misunderstanding between us because that's  
23 unproductive. All right.

24 A. okay.

25 Q. Given what you've said, given what

1     you said you perceive to be the professional  
2     responsibility of foresters, and that is a deep  
3     commitment to forest lands, that is what I understood  
4     you to say a few moment ago?

5                   A. I said that, I said that.

6                   Q. Yes. What I'm suggesting to you as a  
7     general proposition is, that that being the case, for  
8     professional foresters to meet and achieve all of the  
9     obligations expected of them today they should have  
10    available to them a complete array of scientific  
11    options to the extent that science can provide them; do  
12    you agree?

13                  A. And also tools, that's correct, and  
14    he chooses accordihng to other kind of involved  
15    professional involvement what to use and what not to  
16    use, what tools are correct, what tools are justified  
17    and will benefit to the forest lands.

18                  Q. Yes.

19                  A. He's done.

20                  Q. And just dealing with the latter  
21    concept, those choices by a professional forester  
22    should be made on the basis of what is in the interests  
23    of the forest lands?

24                  A. Correct.

25                  Q. I think we understand one another?

1 A. Yes.

2 Q. Would you agree with me, Mr. Marek,  
3 that again, still dealing with the role of the  
4 professional forester, and given your experience over a  
5 great many years with this, would you agree with me  
6 that the professional forester whose the author of any  
7 particular timber management plan is the person most  
8 qualified to develop and implement prescriptions for  
9 silviculture and harvesting, assuming that the  
10 responsible forester has input from the public and  
11 receives technical advice where needed from experts in  
12 areas where needed?

13 A. It's my sincere wish, Madam, that  
14 professional forester - and not only professional  
15 forester, I would say beyond professional forester -  
16 will fulfill this obligation. What worries me, Madam -  
17 and I express it here, that is subject we discussed it  
18 yet - that by just being professional forester, just  
19 being say RPM, registered professional forester or, for  
20 that matter, just being forester qualify the man to  
21 prove the obligation you have suggested.

22 Q. They should be properly trained for  
23 the task, is what you're saying?

24 A. Not only, not only -- yes, very much  
25 so. I feel that these people who are - we start a

1 discussion on timber management plan; did we - that  
2 the man responsible for timber management plan should  
3 because we are dealing with Crown lands.

4 Q. I understand.

5 A. And we are dealing with commons and  
6 by commons I mean the term that we are using, the  
7 forest is a commons, property of commons.

8 Q. Could we come back to the nature of  
9 the question that I put to you; and, that is, what is  
10 or is not desirable. And I'm seeking your opinion on  
11 this proposition.

12 A. Yes.

13 Q. That it is the professional forester  
14 who is charged with responsibility for authoring a  
15 particular timber management plan, who is the person  
16 most qualified to develop and implement silvicultural  
17 and harvesting prescriptions, so long as they have  
18 input from the public and receive technical advice on  
19 areas necessary from persons qualified to give that  
20 advice?

21 A. At present.

22 Q. Do you agree with that proposition,  
23 Mr. Marek?

24 A. If I agree with it I like to qualify  
25 it.



1                   Q. That's fine. That's fine. Tell me  
2 first whether you agree or disagree and then qualify  
3 it as you wish.

4                   A. I like to qualify it. I personally  
5 wish to see that any forester who prepare timber  
6 management plans or forest management plan for the  
7 Crown, for the property of commons; in other words, the  
8 Crown lands, our lands, must show further qualification  
9 by agreeing willingly to the alliance to the forest or  
10 the Crown forest. And perhaps this is the first time  
11 it has been mentioned here, Madam Chair, and I am very  
12 glad that you have suggested.

13                  Q. I am not sure that I have, but please  
14 go ahead. I would like to understand what you mean.

15                  A. You lead me to express my opinion.

16                  Q. That's fine. I would like to  
17 understand what you are saying.

18                  A. And if the timber management plan,  
19 regardless if it's for the Crown or if it's for the  
20 company or FMA, should carry further responsibility to  
21 agree to his best conscience and under oath that he  
22 would manage that Crown land, he will manage that Crown  
23 lands according to rules specified and manual - as yet  
24 this has not been discussed - specified to the  
25 condition, be responsible to the forest lands and the

1 Crown.

2 Q. All right. Leaving aside for the  
3 moment the issue of accountability, that is what you  
4 are talking about, the professional forester being  
5 accountable for the Crown land they are asked to  
6 manage; right?

7 A. Able and be accountable and be  
8 responsible for it.

9 Q. All right. Let me try to put it a  
10 little more clearly, Mr. Marek, and I just wish to make  
11 sure that I have your evidence on this issue and that  
12 you understand what I'm asking before you give me your  
13 answer. There has been before this Board, as you no  
14 doubt are aware, a number of varying propositions as to  
15 who should prepare and be responsible for timber  
16 management plans in the province.

17 A. Correct.

18 Q. And I am asking you if you agree on  
19 that issue you with this proposition: That it is the  
20 professional forester who is most qualified as the  
21 author of any particular timber management plan to  
22 develop and implement harvesting and silvicultural  
23 prescriptions, so long as they have input from the  
24 public and technical advice on areas where needed.

25 Of the array of persons who should

1 develop and implement those prescriptions, would you  
2 agree that it is the professional forester who is most  
3 qualified to do so?

4 A. In general terms, yes.

5 Q. Would you also agree, Mr. Marek, that  
6 it is the professional forester working with technical  
7 experts and interested individuals that have hands-on  
8 knowledge that would be in the best position to plan  
9 timber management activities on any given management  
10 unit?

11 A. Are you talking about input into the  
12 plan?

13 Q. No, I am talking about planning, the  
14 process of planning.

15 A. Yeah.

16 Q. For timber management activities on  
17 any particular unit, and I am asking for your opinion  
18 on this proposition: That it is the professional  
19 forester who, working with interested individuals and  
20 technical experts, is the person in the best position  
21 to effect that kind of planning?

22 A. That's correct.

23 Q. Now, when you said earlier that you  
24 have thought there should be a consideration given to  
25 the commitment to forest lands by professional

1 foresters, I want to make sure I understand what your  
2 evidence is on that.

3 A. Yes.

4 Q. Are you saying that professional  
5 foresters should be accountable for the - to use a  
6 lawyer's phrase, I don't mean any legal meaning - for  
7 the public trust that's given to them in managing  
8 public lands?

9 A. Yes.

10 Q. Is that what you meant?

11 A. Yes, yes.

12 Q. And that that commitment should be  
13 personalized and professional?

14 A. May I discuss this subject on kind of  
15 higher level which is the practice right now, what I  
16 wish to see in the future plans. We can go back to it,  
17 Madam.

18 Q. Just in general terms, can I have  
19 that --

20 A. I understand that you are trying to  
21 establish some kind of precedence to quote, "much  
22 deeper" discussion on these responsibilities.

23 Q. Do you agree with the propositions I  
24 have put to you so far?

25 A. Yes, so far okay, and I put my



1 qualification too.

2 Q. You've described to the Board in the  
3 witness statement for panel 3, Mr. Marek, your view of  
4 the current open house process, how they are conducted,  
5 and your perception of the role of the public in the  
6 planning process, and there has been some discussion  
7 about that over the last several days, you will recall?

8 A. That's correct.

9 Q. In your view, Mr. Marek, to address  
10 those concerns, the concerns being those related to the  
11 role of the public in the planning process, do you  
12 understand the subject matter that I'm raising?

13 A. Yes, so far.

14 Q. All right. To address those  
15 concerns, would it be desirable in your opinion to seek  
16 public participation or involvement of the public in  
17 the establishment of timber management goals and  
18 objectives; is that desirable?

19 A. Yes, very much so.

20 Q. Would it, in your opinion, be  
21 desirable to increase public participation in the  
22 pre-planning as well as the planning stages of the  
23 process?

24 A. Yes.

25 Q. Would it, in your opinion, be

1       desirable -- well, perhaps we can talk about this at  
2       different levels. Could I ask you to first think of  
3       the regional level, an entire region, Mr. Marek, all  
4       right, as distinct from a particular management unit.

5                   A. Madam, because in moment you mention  
6       region something happen to me.

7                   Q. I saw that. I am not quite sure what  
8       it was, but I did notice that it happened.

9                   MR. MARTEL: I thought he was starting to  
10      cheer for you.

11                  THE WITNESS: No, no, Madam, cheer? You  
12      didn't hear a cheer, please.

13                  MS. CRONK: Q. Now, don't be so grudgy,  
14      Mr. Marek. At the end of our discussion one of us may  
15      feel that way.

16                  Could I ask you on this entire issue,  
17      because you'll understand that this is from certainly  
18      the Industry's point of view and the point of view, if  
19      I may presume to say so, your own clients, a very  
20      important issue before the Board. What I am talking  
21      about now is public participation in the planning  
22      process.

23                  A. That's right.

24                  Q. That's what we are talking about, and  
25      I am asking you to think about that for the moment at

1 the regional level as opposed to any particular  
2 management unit. All right, are you with me so far?

3 A. Yes.

4 Q. All right. And thinking about it at  
5 the regional level, would you agree with me or would  
6 you support the concept, Mr. Marek, of the involvement  
7 of the public in a regional committee, if one were to  
8 be established, involving representatives of the public  
9 and other interested groups to talk about provincial  
10 policies in the timber management planning field.  
11 Would you support that concept, or is it one that you  
12 are unaware of?

13 A. Madam Chair, I have my peculiar view  
14 on region. Matter of fact, I have my own opinion about  
15 region, period, existence of that thing called region.

16 MADAM CHAIR: Are we going to hear your  
17 opinion, Mr. Marek?

18 THE WITNESS: Are you?

19 MADAM CHAIR: Would you like Mr. Marek's  
20 opinion, Ms. Cronk?

21 MS. CRONK: With your indulgence, if I  
22 might proceed.

23 MADAM CHAIR: Do you want to say  
24 something about this?

25 MS. CRONK: I was going to, if I might,

1 Madam Chair.

2 MADAM CHAIR: Go ahead.

3 MS. CRONK: Q. Mr. Marek, please  
4 understand that the issue that I've raised with you is  
5 an important one for all concerned, and unless your  
6 opinion on regionalization or the regional structure  
7 pertains to the question I've put to you, I would ask  
8 you to reserve the opinion for another time.

9 A. Okay, I reserve it.

10 Q. All right. I am asking you then to  
11 think of the public involvement in the planning  
12 process, what should happen on a regional scale, and  
13 what I am suggesting to you is that if a committee were  
14 struck, whether you like the system or not, at the  
15 regional level, if a committee were struck at that  
16 level, would it be valuable to have the existence of  
17 such a committee with involvement of the public to talk  
18 about provincial policies in timber management  
19 planning?

20 A. We are dealing with hypothetical  
21 question, because in a general consensus of proper  
22 forest management in other words, and after all that's  
23 what we are here for, when you ask me what input should  
24 have regional vis-a-vis the public and the public  
25 vis-a-vis the region, I would have problem to say I



1 disregard region, because region to my -- from my  
2 experience for last so many years in Canada, or in  
3 Ontario, the region is something which was created as a  
4 big bureaucratic organization under the auspices of the  
5 reorganization. That region to me should serve  
6 purpose, but I tell you what kind of purpose, Madam.

7 Q. Well, is the purpose you are about to  
8 tell me about in general political terms, or is it  
9 related to timber management planning?

10 A. Oh, it's timber management.

11 Q. That's fine then.

12 A. I am not talking about politics now.

13 Q. That's fine.

14 A. It may be politics, but I am not  
15 definitely talking about politics. I would take away  
16 the responsibility of the region; in other words, as we  
17 know region full of experts and bureaucrats, I would  
18 tell and I would assign completely different role.

19 I will assign to the region role which I  
20 think has been tested in rest of the world. The  
21 regional set-up which is practised right now is a kind  
22 of auditing, supervising body over the district. It  
23 has been stated by reorganization on many occasions  
24 that the experts are in the region; people in the field  
25 in the districts are doers, they are technicians,

1       doers.

2                   Q. I want to make sure I understand, Mr.  
3       Marek. Are you talking about the appropriate funding  
4       of regional representatives in timber management  
5       planning?

6                   A. Yeah, they are the experts.

7                   Q. All right. Could I ask you just for  
8       a moment to stop there and to consider this  
9       possibility, all right, consider that the current form  
10      of regional structure as it relates to forestry in  
11      northern Ontario is maintained.

12                  A. That's right.

13                  Q. That there continues to be a  
14      northcentral region, for example, or something  
15      equivalent thereto? Would you make that assumption for  
16      me please, Mr. Marek?

17                  A. Yeah, I will. I will, I will.

18                  Q. All right. If that continues.

19                  A. If that continues...

20                  Q. If that continues so that there is a  
21      regional structure, would it be important in terms of  
22      your view of proper and effective planning to have the  
23      public involved at a regional level in understanding  
24      the issues related to timber management?

25                  A. No, I don't want to see public

1     dealing with region.

2                   Q.   I see.  Then perhaps you better  
3     continue for me.  Why do you consider that undesirable.

4                   A.   Madam, in forest management you  
5     cannot have responsible management with the authorities  
6     split in two, three different sections.  I fully  
7     realize the authority of the political body, which is  
8     the Ministry of Natural Resources; in other words, the  
9     final authority of Minister who deal with politics, who  
10    make our rule in our management system, any decision,  
11    or any issues for that matter of professional matter.

12                   On the other hand, I just cannot see.  
13    The district itself is emasculated, emasculated,  
14    please, taking power away as a strictly body of doers  
15    who are always told what to do and not what to do.

16                   Q.   All right.  And having heard your  
17    opinion on that - forgive me, that has little to do  
18    with the role of the public in that structure - can I  
19    ask you to consider it then -- can I ask you then to  
20    consider it then in a district context, Mr. Marek?

21                   A.   Yeah, that's right.

22                   Q.   Would you, from a planning  
23    perspective now at the district level, consider it  
24    beneficial to involve the public directly at the  
25    district level in planning through a committee struck

1 for that purpose? Would that be beneficial?

2 A. Yes.

3 Q. All right. So as long as the  
4 regional aspect of it were removed you would regard it  
5 as beneficial for the public to be involved at the  
6 district level in timber management planning issues  
7 through a committee struck for that purpose?

8 A. Madam Chair, please acknowledge that  
9 I am not against the region, per se, there is an  
10 important role in the region in management over the  
11 forest, but I will quantify it later on when we are  
12 going to hopefully discuss the role of district, role  
13 of region and the role --

14 Q. Mr. Marek, then dealing just with the  
15 issues that you and I have covered, and accepting that  
16 there is something further you wish to add to it, I  
17 want to make sure that I understand your opinion on it.  
18 Leaving aside the issue of the regional structure, and  
19 what the best way is for the MNR to function.

20 A. The structure.

21 Q. With or without regional structure,  
22 leave that aside for the moment.

23 A. Yeah.

24 Q. At the district level, do I  
25 understand your opinion to be that it would be



1       beneficial and of assistance to involve the public in  
2       timber management planning issues through the creation  
3       of a committee to involve the public?

4                   A. Advisory body or whatever you may  
5       call it; in other words, you are talking about input  
6       into --

7                   Q. Yes.

8                   A. Into the -- yes, very much so.

9                   Q. All right. Would it, in your  
10      opinion, also be beneficial to the timber management  
11      planning process for professional foresters to dialogue  
12      on a one-to-one basis with members of the public about  
13      any concerns identified in a particular planning area?

14                  A. If he is entitled to do so, if the  
15      responsibility is given to him and the protective, the  
16      protection of his conduct with public is supported,  
17      then yes.

18                  Q. All right. The question I put to you  
19      was whether it should happen, not how it might happen,  
20      Mr. Marek, all right?

21                  A. It should happen.

22                  Q. Thank you.

23                  A. But it very much depends how it  
24      happen.

25                  Q. And when you say how, what you mean

1 by that is whether a professional forester will be  
2 permitted to do that?

3 A. Permit, qualified and so on and so  
4 on.

5 Q. Exactly. But assuming that this  
6 Board at the end of the day were to think that that  
7 were an advisable thing to do, I take it you would  
8 regard that kind of involvement with the public on a  
9 one-to-one basis by a professional forester responsible  
10 for a timber management plan, dialoguing directly with  
11 the public on a concern in a particular planning area,  
12 as being a very helpful thing?

13 A. Very and absolutely necessary, Madam.

14 Q. Thank you very much.

15 A. Absolutely necessary.

16 MR. MARTEL: Can I ask a question?

17 MS. CRONK: Yes, Mr. Martel.

18 MR. MARTEL: In that dialoguing with the  
19 public one-on-one--.

20 MR. MARTEL: Team to team.

21 MR. MARTEL: Yes, what limitations --  
22 because the other day you told us you had a concern  
23 about protecting the forester by some form of  
24 legislation to be in a position to dialogue so that in  
25 fact nothing is held back, I mean, that he can discuss

1 it openly and frankly.

2 And what type of protection, what type  
3 of -- I guess I worry that if you are going to try and  
4 do this dialoguing, you are going to have to be up  
5 front or you are not going to have credibility very  
6 long because the public is going to see through you.

7 THE WITNESS: May I qualify the kind of  
8 protective measure.

9 MR. MARTEL: Yes.

10 THE WITNESS: One of the most important  
11 protective measure would be his timber or forest  
12 management plan, sir, that is the most important. You  
13 know, if management forester responsible for the area,  
14 with the input of public, produce a management plan,  
15 that management plan will cover him because he say:  
16 You agreed to it, here is a plan, here is the  
17 implementation with audits and so on, but management  
18 plan is created for that purpose, sir.

19 From my study of forestry and history of  
20 forestry, when I think back, way back when this has  
21 been discussed at, you know, by old country, there is  
22 always this emphasis on timber or forest management  
23 plan as something which the forester works, once  
24 approved, that's it, he can go to the public, he can go  
25 back to his masters matter of fact and say: Look, this

1 is timber management plan which is approved, which is  
2 part of the law in that case or equally to the law, and  
3 when somebody come and start intervening or interfering  
4 and say he said: Look here, there is forestry law or  
5 forest law which approves this plan, now go to the  
6 Minister and start kicking, because he approves it.

7 Can you see the significance, Mr. Martel?

8 MR. MARTEL: I am not sure we are quite  
9 on the same wave length. I'm trying to find out the  
10 extent to which you would allow the discussion to be  
11 totally open and frank. I mean, if there was a  
12 condition that someone -- and we know of an example or  
13 two.

14 THE WITNESS: Two.

15 MR. MARTEL: See, unless you clarify that  
16 and how open and how frank someone can be without fear  
17 of losing his job.

18 THE WITNESS: That's right.

19 MR. MARTEL: Then I am not sure one gets  
20 the type of dialogue out on the table that's necessary  
21 to build the confidence amongst various parties. I  
22 mean, it's like negotiating. If you don't all put your  
23 cards on the table in the most frank way, you  
24 ultimately end up in a major dispute.

25 THE WITNESS: Okay, yeah.



1                   MR. MARTEL: I want to know how free the  
2                   man who is responsible for this plan is going to be so  
3                   that he can lay it out on the table so we can over the  
4                   long run?

5                   It isn't going to happen overnight. It  
6                   is like getting a good arbitrator in provincial labour  
7                   disputes, unless the guy is trusted by every side he  
8                   doesn't get an -- we can think of Dicky in Ontario one  
9                   time, if you don't get that sort of individual there,  
10                  nobody trusts them and you get into a real problem.

11                  How upfront can you be?

12                  THE WITNESS: As much as possible. Well,  
13                  okay, that's a clear --

14                  MR. MARTEL: Yes, it scares me.

15                  THE WITNESS: Madam Chair?

16                  MADAM CHAIR: If you want, Mr. Marek, to  
17                  give this question some consideration you can, it's a  
18                  theme Mr. Martel has visited a number of times during  
19                  the hearing and it interests him.

20                  If you have any comments to add to that  
21                  we can address it later on. So why don't we get on  
22                  with the cross-examination and we can come back to that  
23                  before Mr. Marek is finished.

24                  THE WITNESS: Madam Chair, this is a very  
25                  important question and very important problem right now

1 and I think to resolve it -- I'm not the one who  
2 probably had a hundred person on these things, but on  
3 my observation of forest management planning processes  
4 and forest management responsibilities, vis-a-vis the  
5 timber management or forest management plan, I think  
6 that this is a very good beginning to try this, because  
7 Madam Chair, how worse can we get.

8 What is there to lose when you -- the  
9 dilemma of these counter proposals and this fight about  
10 the credibility, and I don't think we have another  
11 choice. We may have to try this just as it is, get it  
12 to work, and perhaps that may be the end of our  
13 discussion today.

14 I appeal to you that if suspicion exists,  
15 that the forester doesn't -- cannot implement it, that  
16 the forester is not trusted, that the forester --  
17 vis-a-vis his employer and so on. I still feel that  
18 this kind of step forward has to be taken. That's my  
19 person opinion from my practice in forestry about 40  
20 years.

21 MS. CRONK: Q. By the step forward, Mr.  
22 Marek, do you mean the format for one to one dialogue  
23 between members of the public and professional  
24 foresters who are responsible for a particular timber  
25 management plan?

1                   A. Madam, I have testified a few days  
2     ago that that's going to be the primary objective of  
3     proper forest management and the duty of forest  
4     managers. This dialogue is eventually going to lead --  
5     finally, to understand, No. 1, the forester is  
6     entitled, indeed should be entitled to responsibility,  
7     to implementation of timber management plans for  
8     reasons -- may I say one thing.

9                   What and how do we start our processes in  
10    the forest? Madam Chair, we start in cutting trees  
11    down. If you cut down, you cut thousands, you can cut  
12    millions, who initiates that? Forestry. Traditional  
13    forestry. For hundreds of years foresters did this  
14    job.

15                  Q. Mr. Marek, just dealing with this  
16    small portion of the larger picture, and that is direct  
17    communication and direct dialogue between members of  
18    the public and professional foresters charged with the  
19    responsibility for a timber management plan--

20                  A. Right.

21                  Q. --and authorship responsibility for  
22    the plan, are those the people you think should be  
23    dialogued with? That's the positive step you referred  
24    to?

25                  A. That's right.

1 Q. Right. You mentioned a qualifier on  
2 some of your earlier answers that it was necessary to  
3 have adequate protection, you say, for the forester?

4 A. Correct.

5 Q. And let me tell you what I understand  
6 you to mean by that, and I would like you to correct me  
7 if I am wrong or tell me if I am right, is part of that  
8 protection for the foresters this dialogue process,  
9 ensuring that it is the professional forester who is  
10 responsible for developing and implementing the timber  
11 management plan?

12 A. Professional forester with  
13 qualification. Madam, you hear what I said clear and  
14 loud, there is a certain improvement to be made in  
15 order to upgrade this qualification, okay.

16 Q. And assuming that we do that -- we  
17 will talk about training and upgrading qualifications.

18 A. To other things.

19 Q. Protection that you were speaking  
20 about, responsibility rests with the professional  
21 forester for developing and implementing the plan?

22 A. Right.

23 Q. Thank you.

24 MS. CRONK: Madam Chair, I actually am  
25 about to embark on another area.



1                   Would it be appropriate to adjourn now  
2           and deal with it in whole, I hope, on Tuesday.

3                   MADAM CHAIR: Yes, it will be, Ms. Cronk.  
4           Thank you.

5                   We will adjourn now until Tuesday morning  
6           at ten o'clock.

7                   MS. CRONK: Thank you.

8                   MADAM CHAIR: Just quickly, there are two  
9           dates the Board wants to notify of you. The first one  
10          is November the 21st. I believe the directive will be  
11          coming around to you that the Board wants to hear  
12          submissions on the scheduling of the presentation of  
13          the rest of the evidence of the hearing, and we have  
14          listed some of the information we are asking the  
15          parties to give us and we have set aside November 21st  
16          at four p.m. as a time when we will hear those  
17          submissions.

18                   MR. FREIDIN: Does that mean --  
19          scheduling the rest of the case, does that mean parties  
20          after Forests for Tomorrow?

21                   MADAM CHAIR: Yes, Mr. Freidin.

22                   On November 28th at four o'clock we will  
23          scope Panel 5 of Forests for Tomorrow's case, and on  
24          November 21st, that will be the deadline for receiving  
25          statements of issue with respect to Forests for

1 Tomorrow's Panel 5.

2 MS. SWENARCHUK: Will this be going out  
3 to Mr. Pascoe with the proposed dates, Madam Chair?

4 MADAM CHAIR: Yes, it will, Ms.

5 Swenarchuk.

6 Thank you very much.

7 THE WITNESS: Have a good weekend, Madam  
8 Chair.

9 MADAM CHAIR: Same to you, Mr. Marek.

10

11 ---Whereupon the hearing adjourned at 4:00 p.m., to be  
12 reconvened Tuesday, November 13, 1990 commencing at  
13 10:00 a.m.

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